

**Punishment**

**of**

**Apostasy**

**in**

**ISLAM**

S.A. Rahman

## THEORIES OF ISLAMIC LAW

*Imrān Ahsan Khan Nyazee*

This book presents *uṣūl al-fiqh* as comprising not one, but at least three major theories or methodologies. Each of these theories had a distinct function to perform in the development of Islamic law. The first theory is shown to be based on the operation of general principles and the analytical method, the methodology of the second incorporates strict interpretation and analogy, while the third theory is based on the purposes of the Islamic *sharī'ah*. Today, each theory has a vital role to play in the development of the law in a modern, efficient Islamic legal system.

The book also shows how the Islamic legal system operates through two cooperating spheres. The private sphere, which is not fixed, falls within the domain of the jurist, while the state sphere, drawing upon the general principles of Islamic law, translates the law made by the state.

In addition to the above, the book presents the content of *uṣūl al-fiqh* or Islamic legal theory in a manner that reflects the traditional approach, but takes into account the needs of the modern lawyer, judge, and scholar.

ISBN 81-7151-226-7

20x30/8

PP. 8+344

## KITAB BHAVAN

1784, Kalan Mahal, Darya Ganj,  
New Delhi-110 002 (India)  
Ph : 3274686, 3277392-93  
Telex : 31-63106 ALI IN  
Fax : 91-11-3263383

HALALCO BOOKS  
5 25  
(703) 532-3202

Justice S.A. Rahman has examined this vital question in the light of the Qur'an, the Sunnah, the practice of the "Rightly-Guided" Caliphs and the opinions of renowned Doctors of Law on the subject. This research study, it is hoped, would be of interest to our legislators, judges, members of the legal profession, Islamic educational institutions as well as to the intelligent lay reader.

**ISBN 81-7151-215-1**

**Rs. 65/-**



Justice  
amined  
the light  
Sunnah  
"Right  
and the  
Doctors  
This re  
hoped,  
our leg  
bers of  
Islamic  
tions as  
gent la

ISBN 8

*Punishment*  
*of*  
**APOSTASY**  
**IN ISLAM**

**S.A. RAHMAN**  
(Rtd.) Chief Justice of Pakistan

**KITAB BHAVAN**  
New Delhi-2 (India)

Just  
ami  
the  
Sun  
"Ri  
and  
Doc  
Thi  
hop  
our  
ber  
Isla  
tion  
ger

**KITAB BHAVAN**

Exporters and Importers  
1784, Kalan Mahal, Darya Ganj,  
New Delhi-110002 (India)

Phones : 3274686, 3277392-93  
Fax : 91-11-3263383  
Telex : 31-63106 ALI IN

ISBN 81-7151-215-1

First Published in India 1996

*Published by :*

Nusrat Ali Nasri for Kitab Bhavan  
1784, Kalan Mahal, Darya Ganj,  
New Delhi-110002 (India)

IS

*Printed in India at:*

F.M. Offset Printers  
Darya Ganj, New Delhi-2

## CONTENTS

Introduction, 1-8

### Chapters

I. Apostasy and the Qur'an, 9-55

II. Apostasy and the Sunnah, 56-86

III. Apostasy and the "Khilāfat al-Rashidah," 87-103

IV. Apostasy and the Fuqahā', 104-129

V. Summary and Conclusions, 130-138

Bibliography, 139-144



Jus  
an  
th  
Su  
"F  
ar  
Do  
Th  
he  
ou  
be  
Is  
ti  
g'

## INTRODUCTION

The State of Pakistan is the end-result of a historical process which started with the first Muslim invasion of this subcontinent. Various factors, political, economic, social, cultural and religious, operated on and entered into the structure of the Muslim nation which emerged, in 1947, as a unique ideological State, comprising of two units separated by a thousand miles of hostile Indian territory. Its dominating inspiration, however, came from the religious consciousness of the Muslims of the subcontinent, which crystallised into an ardent longing for a terrestrial base for the working out of what was regarded as a Divine Plan of action in the socio-political sphere. Implementation of the Islamic values of life was declared to be the objective before the Founding Fathers of Pakistan by a formal Constitutional Instrument drawn up finally in 1956. The Constitution of 1956 was, however, superseded by the Martial Law regime in 1958, and, four years later, the Constitution of 1962 was promulgated by a Presidential Decree, under the protective umbrella of Martial Law. Whatever may have been the political overtones or undertones of that constitutional dispensation, it respected the ambition of the majority Muslim community to order their lives in accordance with the dictates of the Qur'an and the *Sunnah*, while ensuring cultural and religious autonomy and fundamental political equality to the non-Muslim minorities, like its predecessor in the constitutional field. Later political developments have thrown that instrument again into the melting pot.

## *Punishment of Apostasy in Islam*

Though some political parties have sponsored schemes of a more equitable distribution of the means of production and wealth, under the undefined terminology of "Islamic Socialism," none has denied the efficacy of the religious motivation in the life of the Muslim community and, except for a small group of extremists, even the leftist parties have professed anxiety for pressing into service the principles of Islamic social justice. The question, therefore, as to what sort of polity the fundamentals of Islam envisage is very much a live issue in the context of our present-day politics.

The non-Muslims resident in Pakistan, since its inception, were assured time and again by the Qā'id-i-A'zam Muḥammad 'Alī Jinnāḥ, that they would have all the fundamental rights guaranteed to them, on a basis of equality with the members of the majority community and that they may even expect to receive generous rather than merely egalitarian treatment. These non-Muslims are neither *dhimmīs* nor *mustā'mins* in the technical sense of Muslim jurisprudence. Their position is assimilable to that of *mu'ahids*—the beneficiaries of a binding pact. There is august precedent available in Muslim history for this kind of integrating equation for certain State purposes, subject to the different communities enjoying full liberty of conscience and autonomy of action in the religious field, with the overriding reservation that the Head of the State must belong to the numerically predominant community. The Prophet (on him be peace) had entered into such a pact with the Jewish and Christian tribes of Medina, after his migration from Mecca (the Hijrah).<sup>1</sup> The

1. Dr Muḥammad Ḥamīdullah, *Siyāsī Wathīqah Jālī* (Urdu translation), pp. 19-24.

## Introduction

Qa'id-i-A'zam was, therefore, essentially right in holding out an assurance of this character to those non-Muslims who owed unquestioning allegiance to the State of Pakistan.

With a mixed population such as we have in Pakistan, the problem of inter-communal harmony assumes importance. Freedom of conscience, the right to profess as well as propagate one's own faith and to safeguard one's religious institutions, consistently with law and morality, would be regarded as the inviolable right of every community in the modern world. The position of the proselyte, if he happens to belong to the majority community, would present a testing ground of good faith and fair play in inter-communal relations. Unfortunately our *Fiqh* Compendiums do not enter on an analytical study of this problem, in the light of the Qur'anic injunctions and authentic *Sunnah*, and no distinction apparently exists in the minds of the old jurists between apostasy simpliciter and apostasy combined with treason or severance of allegiance to the State. It is tacitly assumed that every apostate from Islam deserves the death penalty, not merely as a renegade from the true faith, but also as a *muḥārib*—an active rebel. Such a doctrine could have far-reaching repercussions in the socio-political sphere and might invite retaliatory legislation from countries where the Muslims happen to be in a minority. Eventually such a legislative war might put an end to all missionary activity in support of Islam.

The image of Islam created by some of the non-Muslim Western scholars strikes a humble student of the Qur'an, like the present writer, to be a crude caricature of its liberal humanitarian teachings. Majid

*Punishment of Apostasy in Islam*

Khadduri's appraisal of the Islamic Law on the subject of apostasy leads him to conclude that "both jurists and theologians agree that apostasy constitutes a violation of law, punishable both in this world and the next. Not only is the person denied salvation in the next world but he is liable to capital punishment by the State."<sup>2</sup> Samuel M. Zwemer, Christian missionary in Egypt, claims that there are so few converts from amongst Muslims to Christianity, in spite of prodigious missionary efforts, because the sword of Damocles is always hanging over their heads in the shape of the death sentence, if they commit apostasy. He quotes from Dr Andrew Watson's *History of the American Mission in Egypt (1854-94)* an assertion that all seventy-five converts to Christianity, from among Muslims, were subject to persecution "because the idea of personal liberty—freedom of conscience—has no place in Moslem Law, whether religious or civil."<sup>3</sup> Such distortions of the clear Qur'anic injunction of there being no compulsion in religion (*La ikrāha fi'd-Din*) are, however, made possible (speaking with all respect) by uncritical generalisations of concrete decisions in our history, by our own scholars and jurisconsults. By and large, our orthodox *Fuqahā'* (jurists) have taken the inelastic line that the punishment for apostasy in Islam is death. Echoes of this view are to be heard in the writings of some of our modern savants as well. Only two such instances may suffice to illustrate my point.

In the estimation of a reputed Muslim scholar, "Apostasy constitutes a politico-religious rebellion." He sums up his views in these terms: "The sayings and

2. Majid Khadduri, *War and Peace in the Law of Islam*, pp. 149-52.

3. Samuel M. Zwemer, *The Law of Apostasy in Islam*, Chapter I, pp. 17-20

## Introduction

doings of the Prophet, the decisions and practice of the Caliph Abū Bakr, the consensus of opinion of the Companions of the Prophet and all the later Muslim jurists and even certain indirect verses of the Qur'an, all prescribe capital punishment for an apostate."<sup>4</sup>

Working out the logical consequences of a similar stand, another modern scholar, who also heads a religious-political party in Pakistan, expresses himself on the incidents of an Islamic State, with this pronouncement: "To my mind the solution lies in this (*Wa-Allāhu al-muwaffiqu li'l-sawāb* = And God alone leads us into conformity with what is right)—whenever the Islamic revolution is successful, the Muslim population will be notified that those who renounce Islam, by declaration of a different faith or by their actions, but desire to remain subjects of the State, shall, within a year of the notification, proclaim themselves publicly to be non-Muslims and to be outside the pale of the Muslim community. After the expiry of this period, those born in Muslim households would be deemed to be Muslims, bound by all the Islamic Laws. They will be compelled to carry out all obligations and observe all injunctions of the Faith. Thereafter if some one of them leaves the fold of Islam, he shall be put to death. After the issue of such a notification, all efforts shall be made to save as many of the Muslim-born children as possible from falling into the lap of disbelief, and those not amenable to the process of conservation shall have to be cut off from the social organism with a determined hand though a heavy heart. After this purge, the Islamic polity shall be inaugurated with the support of such

4. Dr M. Hamidullah, *Muslim Conduct of State*, Part III, Chapter IV, pp. 172 *et seq.*

## *Punishment of Apostasy in Islam*

Muslims as are devoted to Islam.”<sup>5</sup>

This solemn pronouncement conjures up a vision of the shape of things to come which, the present writer ventures to think, will not commend itself to those thinking individuals who believe in Islam as a living force for all times and climes. Such writings would of course be avidly seized upon by censorious Western scholars as grist for their polemical mill.

In 1924-5, the question of punishment for apostasy was the subject of controversy between the *Daily Hamdard* of the late Maulāna Muḥammad ‘Alī Jauhar and the *Daily Zamīndār* of Lahore, edited by the late Maulāna Zafar ‘Alī Khān. This was occasioned by the stoning to death at Kabul, for alleged apostasy, of one, Ni‘mat Ullah, a member of the Qādiyānī section of the Aḥmadi sect. M. Muḥammad ‘Alī Jauhar had, it seems, sponsored the thesis that Islam did not sanction any punishment for apostasy as such and from the side of the *Zamīndār* this proposition was vehemently contested. The writer had access to the articles published on the subject in the *Zamīndār* through the courtesy of Dr S. M. Ikram and Dr M. Jahāngir Khān of the Research Society of Pakistan, Lahore. He regrets, however, that despite diligent search, he was unable to lay hands on the relevant files of the *Hamdard*. Judging from the material published in the *Zamīndār*, both parties to the controversy were able to draw upon the authorities from the *Sunnah* and Muslim *Fiqh*, in support of their respective positions.

From the point of view of the solidarity and integrity of the Islamic community, the question assumes vital importance when we recall to mind the historic fact

5. S. Abu'l-A'lā Maudūdī, *Murtadd Ki Sozā Islāmī Qānūn Men*, pp. 75-6.

## Introduction

that the so-called sects of Muslims have been too prone to condemn one another as disbelievers, on the basis of slight deviations from the orthodox position, in respect of doctrine or practice. The grounds on which a person could be declared to be a *kāfir* (disbeliever) appear to be vast and varied and some idea of the wide field they cover may be obtained from a study of *faṣl al-thalīth* of *bāb al-awwal* of al-Sāmārā'i's *Aḥkām al-Murtadd*.<sup>6</sup>

With this background of facts in mind, I have ventured to examine *de novo*, in the light of the fundamental sources of Islamic Law, the question whether apostasy simpliciter, without any political strings attached, is at all punishable in Islam and, if so, whether it is possible to spell out of the historical precedents, cited in support of the death penalty for change of faith, any general rule laying down the measure of such punishment. I was encouraged to embark on this venture by the stimulating sixth lecture of the late 'Allamah Dr Sir Muḥammad Iqbāl, headed as "The Principle of Movement in Islam". Among other profound observations, the following inspiring comment occurs therein: "The claim of the present generation of Muslim Liberals to reinterpret the foundational legal principles, in the light of their own experience and the altered conditions of modern life, is, in my opinion, perfectly justified. The teaching of the Quran that life is a process of progressive creation necessitates that each generation, guided but unhampered by the work of its predecessors, should be permitted to solve its own problems."<sup>7</sup>

6. Al-Sāmārā'i, *Aḥkām al-Murtadd*, pp. 77-137.

7. Dr. Sir Muḥammad Iqbāl, *Six Lectures on the Reconstruction of Religious Thought in Islam*, p. 234.



*Punishment of Apostasy in Islam*

What follows is a humble attempt in the direction indicated by 'Allamah Iqbāl, but neither finality nor infallibility is claimed for the opinions expressed herein: *Wa-Allāho a'lam bi'l-ṣawab* (And God is the best knower of the truth).

## Chapter I

### APOSTASY AND THE QUR'AN

#### *Section I—The Spirit of the Qur'ān*

The Arabic equivalent for apostasy is *riddah* or *irtidād* from the root *radd* which, among other connotations, has the meaning "to retreat, to retire, to withdraw from or fall back from". In the context of Muslim *Fiqh* (jurisprudence) it is equated with renunciation or abandonment of Islam by one who professes the Islamic faith. The apostate is called *Murtadd*. According to Muslim jurists, apostasy may be committed with reference to belief, word or deed, or even by failure to observe certain obligatory practices. The person concerned must have attained majority, should be in full possession of his senses and should have acted voluntarily, if he is to be condemned as an apostate. An elaborate discussion of the antecedents of apostasy would be beyond the scope of our subject. An adequate summary of the jurists' views on this subject would be found in the second and third *fuṣūl* (sections) of the first chapter (*bāb al-awwal*) of al-Samarā'i's *Aḥkām al-Murtadd*.<sup>1</sup>

In the Introduction to his book, al-Samarā'i observes as follows :

In the Book [the Qur'ān] I found sometimes "al-riddah" mentioned expressly and sometimes by import. I followed up the verses in the various commentaries and I arrived at the con-

1. Al-Samarā'i, *Aḥkām al-Murtadd*, pp. 77-137.

## *Punishment of Apostasy in Islam*

clusion that the punishment of the apostate (and that is death) is not to be found in the Book but finds mention in the *Sunnah* only.<sup>2</sup>

This view is fairly representative of the opinions of scholars who have written on the subject. There is absolutely no mention in the Qur'an of any punishment for apostasy to be inflicted in this world. In the article headed "Murtadd" in the *Encyclopaedia of Islam* (Leyden, 1932),<sup>3</sup> Professor Heffening has acknowledged this fact expressly.

Dr Muhammad Hamidullah, in his *Muslim Conduct of State*, has referred to some "indirect verses of the Qur'an" as bearing on the point of punishment for apostasy, viz. al-Mā'idah, verse 54, and al-Aḥzab, verse 57, but it is difficult to agree with him that these verses can be pressed into service for sustaining the capital sentence for apostasy. For his main thesis, M. Abu'l-A'la Maudūdī has relied on the Qur'anic verses: "*Fa intabū wa aqām-uṣ-ṣalāta wa atawuz-zākāta, fa ikhwā-nukum fid-dīn; wa nufaṣṣil-ul-āyāti li qaumīn ya'lumūn. Wa in nakathū aimānahum min ba'di 'ahdihim wa ta'anū fī dīnikum faqātilū a'immat al-kufri, innahum lā aimāna lahum la'allahum yantahūn*" (Taubah, verses 11-12).

He has interpreted these verses in a sense which is at variance with their generally accepted connotation. According to him, they should be rendered as: "Then if they repent (of their disbelief) and observe prayer and pay the 'Zakāt,' they are your brethren in faith. We explain Our injunctions for a people who have knowledge. But if they break their oaths, after their covenant (i.e. their covenant to accept Islam)

2. Ibid., p. 12.

3. Vol. III, Part Z, p. 737.

## Apostasy and the Qur'an

and make your *Dīn* the target of their taunts, then fight these leaders of disbelief, for their oaths cannot be depended upon—maybe that they shall thus desist.”<sup>4</sup> He construes the word '*ahd*' as meaning a “covenant to accept Islam”. This construction, generally speaking, is not borne out by any of the well-known commentaries, published in the Indo-Pak subcontinent or abroad. Maulānā Shāh 'Abdul Qādir,<sup>5</sup> Maulānā Ashraf 'Alī Thānawī,<sup>6</sup> Maulānā Maḥmūd al-Hasan Deobandī,<sup>7</sup> Maulānā Shabbīr Aḥmad 'Uthmānī,<sup>7</sup> Maulānā Shāh Muḥammad Aḥmad Riḍā' Khān Barelvī,<sup>8</sup> Sayyid Muḥammad Na'im-ud-Dīn Murādābādī,<sup>8</sup> Maulānā Abu'l-Kalām Āzād,<sup>9</sup> M. Muḥammad 'Alī,<sup>10</sup> Mr 'Abdullah Yūsuf 'Alī,<sup>11</sup> Nawāb Ṣiddīq Ḥasan Khān,<sup>12</sup> take the term '*ahd*' as equivalent to a political pact and, in their comments on these verses, give the history of the agreements between the Muslims and the disbelieving Quraish, starting from the Peace of Hudaibiyyah, as the background for their revelation. The standard

4. S. Abu'l-A'lā Mawḍūdī, *Murtadd Ki Sazā Islāmī Qānūn Men*, pp. 11-2.

5. Shāh 'Abdul Qādir, *Tafsīr Mauḍaḥ al-Qur'ān*, p. 172.

6. M. Ashraf 'Alī Thānawī, *Mu'jiz Numā' Ḥamā'il Sharīf* (with Urdu translation), pp. 299-300; also his *Bayān Qur'ān* (Urdu commentary), Vols. IV, V & VI, pp. 92-3, 98-99.

7. *Qur'ān Majīd Mutarjam wa Muḥaṣṣhah*, Urdu translation by M. Maḥmūd al-Ḥasan, and marginal commentary by M. Shabbīr Aḥmad 'Uthmānī, pp. 242-3.

8. *Al-Qur'ān al-Ḥakīm*, with Urdu translation by Muftī Shāh Muḥammad Aḥmad Riḍā' Khān—marginal commentary by Sayyid M. Na'im-ud-Dīn, pp. 271-2.

9. Abu'l-Kalām Āzād, *Tarjumān al-Qur'ān*, Vol. II, p. 77.

10. M. Muhammad Ali, English translation and commentary of the Holy Qur'ān, with Arabic text, 3rd edn. (1935), pp. 398-9.

11. Abdullah Yusuf Ali, English translation with commentary of the Holy Qur'ān, Vol. I, pp. 436-7, 441.

12. Nawāb Ṣiddīq Ḥasan Khān, *Fatḥ al-Bayān*, Vol. IV, p. 86.

### *Punishment of Apostasy in Islam*

exegetical works of Baiḍāwī,<sup>13</sup> Zamakhsharī,<sup>14</sup> al-Jaṣṣāṣ,<sup>15</sup> Fakhr-ud-Dīn al-Rāzī,<sup>16</sup> and al-Ālūsī,<sup>17</sup> too, take an identical view so far as the word 'ahd is concerned. But while interpreting these verses and the next, all except Jaṣṣāṣ refer to the lesser-known alternative reading of *aimānahum* (their oaths) as *imānahum* (their faiths) and indicate that the suggested alternative would require the rendering to be: "And if they break what they have said in the oath of allegiance as part of their faith or as part of their promise to fulfil covenants." Rāzī and Ālūsī, however, give distinct preference to the construction based on political covenants, for, as Rāzī observes, "the verse was revealed in respect of those who broke their covenants" and he rejects the alternative reading of *imānahum* as not in conformity with the context. Zamakhsharī, it may be noted, also translates the identical words "*nakathū aimānahum*" occurring in the following verse as referring to their political agreement. Baiḍāwī adopts the reading "*imān*" for "*aimān*" only in the expression "*innahum la aimāna lahum*" and he too equates the words "*nakathū aimānahum*" in the next verse with the breach of faith in respect of covenants with the Prophet and the Muslims. The *Tafsīr al-Manār*<sup>18</sup> in its exposition of these verses records that they clearly relate to the *mushrikin* (polytheists) of Arabia who had entered into covenants with the faithful but

13. *Tafsīr Baiḍāwī* with *Tafsīr Jalalain* of al-Suyūṭī, and *al-Muḥallā* on margin, Vol. I, p. 340.

14. Zamakhsharī, *al-Kashshāf*, Vol. II, pp. 251 *et seq.*

15. Al-Jaṣṣāṣ, *Aḥkām al-Qur'ān*, Vol. III, p. 105.

16. Rāzī, *Tafsīr al-Kabīr*, Vol. IV, p. 416.

17. Ālūsī, *Ruḥ-al-Ma'āni*, Vol. X, pp. 42, 57, 58.

18. Rashīd Riḍā', *Tafsīr al-Manār*, Vol. X, pp. 187-91.

## *Apostasy and the Qur'ān*

had deliberately broken them and adds that the generality of the injunction embodied in them would comprehend all those whose relations with the Muslims can be assimilated to those with the *mushrikīn*. Maulānā Maudūdī, therefore, does not have the sanction of any clear-cut authority behind his interpretation which is also inconsistent with the theme of Sūrah Taubah. The object of the fighting against infidels specified at the end of the verse is to make them "desist" (from their actions). This object accords with the preferred construction. If the persons concerned were to be killed for apostasy, there should have been no question of an attempt to making them "desist" from their course. The subsequent verses establish that the disbelievers had repeatedly broken their covenants and had taken the initiative in the fighting. The directive given is to fight them to ensure peace and order and not to slay them, *par excellence*, as Baiḍāwī explicitly clarifies.

The position that emerges, then, is that it is not possible to spell out the death penalty for apostasy from a study of the Qur'ān alone, and this fact was acknowledged by some writers in the *Zamīndār*. Indeed, if dispassionate consideration is given to the Qur'ānic text, without preconceived notions, it will be found that the punishment of the apostate is postponed to the Hereafter. In matters concerning the individual conscience, the Qur'ān places no fetters on free choice. The appeal of the Qur'ān is to history, observation and reason, in support of its invitation to the path of faith and rectitude. Even to contestants of the truth, it issues a challenge to adduce evidence to sustain their assertions. "*Qul hātu burhānakum in kuntum ṣādiqīn*" (al-Baqarah, verse 112): "Say: Bring forth

### *Punishment of Apostasy in Islam*

your proof, if you are truthful." This rational approach runs like a golden thread throughout the fabric of the Qur'anic teachings. To emphasise the importance of the deliberative function, the Qur'an declares in ringing terms of admonition: "And be not like those who say 'We hear,' but they hear not. Surely the worst of beasts in the sight of Allah are the deaf and the dumb, who have no sense" (al-Anfal, verses 22-23).

To attribute an intention to the Divine Scheme, of compelling renegades from the true faith to resume their allegiance to God and the Prophet on pain of being killed, would apparently run counter to the letter and spirit of the various directives and admonitions included in the Qur'an, pertinent to this question. The call to the Way of the Lord is to be made with wisdom and fair exhortation and people are to be reasoned with, "in the better way" (Sūrat al-Naḥl, verse 127). Even the false gods of the opponents of the faith are to be immune from abusive references. Says the Qur'an: "Revile not those unto whom they pray besides Allah, lest they, out of spite, revile Allah through ignorance. Thus unto every people have We made their doings seem fair. Then unto their Lord is their return; and He will inform them of what they used to do" (al-An'ām, verses 109-110). If war (only defensive wars are permitted) is to be resorted to, its objective must be the establishment of the fundamental human right of liberty of conscience. In Sūrat al-Baqarah, it is solemnly declared: "Fight in the way of Allah against those who fight against you, but *do not* transgress. Surely Allah loves not the transgressors. And slay them wherever you find them and drive them out of the places whence they drove you out,

### *Apostasy and the Qur'an*

for persecution is worse than slaughter. And fight not with them near the Sacred Mosque until they first attack you there, but if they fight you, then slay them. Such is the requital for disbelievers. But if they desist, then let there be no hostility except against wrong-doers" (verses 192-195).

Condign punishment in this world is only reserved for those who are out to fight the faithful and disrupt the social order. Their case is dealt with in *Sūrat al-Mā'idah* (verses 34-35) in the following words: "The only reward of those who make war upon Allah and His Messenger and strive to create disorder in the land, will be that they will be slain or crucified or have their hands and feet on alternate sides cut off, or will be expelled from the land. Such will be their degradation in the world, and in the Hereafter theirs will be an awful doom, save those who repent before you overpower them. For know that Allah is Forgiving, Merciful."

Duress or coercion in matters of belief does not enter into the composition of the social system envisaged by the Qur'an. Clear guidance in a truly humanitarian spirit of tolerance is given to the Muslims in this field in several verses which recognise the existence of a pluralistic milieu, though of course a categorical distinction is drawn between those who follow the Straight Path and those who are misguided and have become impervious to the signs of God. The latter are warned of the punishment awaiting them in the Hereafter. The realistic and humanistic stance of the Qur'an is amply illustrated by the following, among other commandments:

(1) Lo! those who believe (in that which is revealed unto thee, Muḥammad), and those who are Jews, and



### *Punishment of Apostasy in Islam*

Christians, and Sabeans—whoever believes in Allah and the Last Day and does right—surely their reward is with their Lord and no fear shall come upon them, nor shall they grieve” (al-Baqarah, verse 63).

(2) Lo! those who disbelieve and die while they are disbelievers, on them shall be the curse of Allah and of angels and men combined (al-Baqarah, verse 257).

(3) There is no compulsion in religion. Surely the right direction is henceforth distinct from error. And he who rejects false deities and believes in Allah has grasped a firm handlehold which will never break. And Allah is Hearer, Knower (al-Baqarah, verse 257).

This (verse 257) is one of the most important verses of the Qur’ān, containing a charter of freedom of conscience unparalleled in the religious annals of mankind and deserves detailed discussion. It is with regret mingled with perturbation that one notices attempts made by Muslim scholars themselves to whittle down its broad humanistic meaning by imposing limitations on its scope, dictated by exigencies of theological controversies that arose in the course of our history. By this means it was intended to corelate the word of God with what was understood to be the Prophet’s *Sunnah* or to reconcile it with inferences drawn from historical precedents whose full background was seldom explored.

Some of the exegetists of the Qur’ān<sup>19</sup> cite the opinion that this verse had been abrogated by other verses such as: “O Prophet, strive against the disbelievers and the hypocrites. Be harsh with them” (al-Taubah, verse

19. Şiddiq Ḥasan Khān, op. cit., Vol. I, p. 426; Abī Bakr Ibn al-‘Arabī, *Aḥkām al-Qur’ān*, Part I, p. 232; Ibn Ḥayyān, *Baḥr al-Muḥīṭ*, Vol. II, p. 281; Ālūsī, op. cit., Vol. III, pp. 12-3; Zamakhsharī, op. cit., Vol. I, pp. 303 and 387.

### *Apostasy and the Qur'an*

73); "O ye who believe! fight those of the disbelievers who are near to you and let them find harshness (hardness) in you" (al-Taubah, verse 123); and "Say unto the wandering Arabs who were left behind: 'You will be called against a folk of mighty prowess, to fight them until they surrender'" (al-Fath, verse 17). But the majority of the commentators prefer the reports which suggest that the verse under examination was revealed with reference to the case of an Anṣār woman who had vowed that if her son survived, she would make him a Jew. The son had joined the Jewish tribe of Banū Naḍir in Medina, but when this tribe was banished therefrom, for their perfidy, the Anṣār tried to detain the boy and to convert him to Islam. This was not allowed to be done because of this revelation. An alternative version connects it with the case of an Anṣār named Ḥaṣīn whose two sons were Christian. Ḥaṣīn consulted the Prophet (peace be upon him) who forbade him from his intention to force them into the Islamic fold. Still another version links the verse with the case of a slave from the *Ahl al-Kitāb* (People of the Scripture) whose adherence to his own faith was respected under this injunction. Finally it was given out as the opinion of some that it was meant to cover the case of those People of the Book who had submitted to the Muslims and had agreed to pay *Jizyah* (poll-tax).<sup>20</sup>

The wording of the verse is perfectly general and the versions about its *shān-i-nuzūl* (occasion for revelation) cannot detract from the full effect of the eternal

20. Ibn 'Abbās, *Tafsīr*, with al-Suyūṭī's *Lubab al-Nuqūl*, p. 114; al-Suyūṭī, *al-Durr al-Manthūr*, Vol. I, pp. 329-30; Ibn Ḥayyān, op. cit., Vol. I, pp. 426 *et seq.*; Ālūsī, op. cit., Vol. III, pp. 12-3; Zamakhsharī, op. cit., Vol. I, pp. 303 and 387 *et seq.*

### *Punishment of Apostasy in Islam*

principles of human polity, laid down therein. It would be pertinent to consider, in this connection, the acute observations of Shah Wali Ullah, in his *al-Fauz al-Kabir fi Uṣūl al-Tafsīr*.<sup>21</sup> In Chapter III, headed "Asbāb-i-Nuzūl," he says: "Knotty problems arise in connection with the question of *asbāb-i-nuzūl* (grounds of revelation). This is due to differences in technical expressions used by earlier and later exponents. From the statements of the Companions and those who followed them, the conclusion can be drawn that when these venerable persons say that an *āyah* was revealed in the context of such and such incident, then it is not intended to confine its application to that incident which might have occurred during the Prophet's time and occasioned the revelation. These venerable persons were in the habit of mentioning incidents or situations in the Prophet's lifetime or thereafter which, according to their view, were linked with a verse. This did not necessarily lead to the inference that the verse in question would wholly and exclusively pertain to such incident or situation. On the contrary, the verse should be held to convey the commandment contained therein, generally."

Some extraordinary observations are, however, to be met with in the interpretation of this important verse in learned commentaries of exegetists whose erudition, piety and scholarship are universally acknowledged and above question. For instance, no less a personality than Shah Wali Ullah, in his Persian translation of the Qur'ān, the *Fatḥ al-Raḥmān*, while giving the generally accepted rendering of the verse in the main context, adds a marginal gloss which reads: "That is to say, the reasoned guidance of Islam has become manifest. There-

21. Urdu translation by Muḥammad Salīm 'Abdullah, pp. 96-7.

after, so to speak, there is no compulsion, although, in sum, there may be coercion.”<sup>22</sup> In other words, coercion is justified by a good cause and, in such a case, what appears to be compulsion is no compulsion at all. With the highest reverence for the great savant, it would take a lot of persuasion to accept this kind of sophistication as consistent with the clarity and forthrightness of the *Kitāb al-Mubīn* (the Explicit Book). There is no indication in the text that the words are to be understood in a restricted or qualified sense, nor would the *shān-i-nuzūl* reports justify that course. Such an interpretation can perhaps be attributed to the unconscious pressure of orthodox tradition.

Kindred comments are included in the *Fatḥ al-Bayān* of Nawab Ṣiddīq Ḥasan Khān.<sup>23</sup> According to one view, mentioned therein, one should not say of a person converted to Islam under the shadow of the sword, that he was compelled to the Faith for “there is no compulsion in Religion”. Another construction cited therein (also noticed by Alūsī in *Ruh al-Maʿanī*<sup>24</sup> and by Ibn Ḥayyān in *Baḥr al-Muḥīṭ*<sup>25</sup>) confines the verse to the People of the Scriptures, who submitted to the Muslims and agreed to pay *Jizyah* (poll-tax) but excludes the idolaters from its scope. In the case of the latter, only two alternatives are said to be open—Islam or the sword—on the authority of al-Shaʿbī, al-Ḥasan, Qatādah and al-Ḍaḥḥāk. Ṣiddīq Ḥasan Khān recognises the accepted principle of exegesis that regard will be had to the generality of the words and not to the particular

22. Shāh Walī Ullāh, *Fatḥ al-Raḥmān* (1301 H.), p. 57.

23. P. 177.

24. Vol. III, pp. 12-3.

25. Vol. II, p. 281.

### *Punishment of Apostasy in Islam*

circumstances that occasioned the revelation but claims that the general is here particularised by other verses which sanctioned the use of force against *ahl al-ḥarb* (fighters) among disbelievers. He has not specified the verses he had in mind but, in any event, the argument is specious. For those who fight the Muslims fall in a different category from those who differ from the faithful, without being aggressive.

Ibn al-'Arabī in his *Aḥkām al-Qur'ān*<sup>26</sup> is much more categorical in his assertions. He declares dogmatically that to compel to the truth is part of the Faith, on the authority of a *ḥadīth*: "I have been commanded to fight people till they recite the declaration of faith (*Lā ilāha ill-Allāh*: there is no god but Allah)," which he considers to have been derived from the Qur'ānic verse: "And fight them until persecution is no more and religion is for Allah alone" (al-Anfāl, verse 40; al-Baqarah, verse 194). Issue may be fairly joined with the learned commentator on the point of this verse supplying the authority for the reported *ḥadīth*, for the verse clearly and explicitly enjoins fighting to end religious persecution and lends no support to the theory of justification of force even in the interest of truth. Ibn al-'Arabī puts forward the specious argument that "the Prophet was charged with the mission to invite people to the Straight Path and to establish *Hujjat Allāh* and that, after a time, God changed his condition from one of a victim of persecution to that of security and from weakness to strength and provided him with strong helpers and commanded him to resort to the sword for the fulfilment of his mission." This view would imply that the injunction against use of force in the matter of religion was

26. Part I, pp. 232 *et seq.*

### *Apostasy and the Qur'ān*

limited to the initial period of weakness of the Muslims and its non-observance would be permissible from a position of strength and prosperity. There is no warrant for such a conclusion to be found in any Qur'ānic verse and indeed the ethical plane of such argumentation is too obvious to require comment. Clearly when the Banū Naḍir were being banished from Medina, the Anṣār woman's son, who was with them, could have been very easily detained by the Muslims, for the Banū Naḍir would have been in no position to resist. But God's infinite Wisdom had prescribed otherwise and the Muslims submitted to the Divine Ordinance. The circumstances surrounding the saying ascribed to the Prophet are not brought out in the *Aḥkām al-Qur'ān* and, for all we know, it may have relevance to the case of active enemies of Islam.

There is good authority for the opposite view. While discussing the contributions of Imām Ibn Taimiyyah to *Fiqh*, Professor Abū Zahrah of Egypt, in his book *Imām Ibn Taimiyyah*,<sup>27</sup> summarises the Imām's opinion in the following terms:

On the first question as to whether it is permissible to fight the disbelievers on the ground of their disbelief or on that of their tyranny and transgression, the Imām refers to two schools of thought among the '*Ulamā*'. The first school holds that, according to Imām Mālik, Imām Aḥmad b. Ḥanbal, Imām Abū Ḥanīfah and others, and the majority of '*Ulamā*' and '*A'immaḥ*', fighting with disbelievers is allowed only if they are bent upon oppression and tyranny. From this opinion it follows that war with infidels is not permissible in any other circumstances. Consequently fighting can be resorted to as a defensive measure or in response to aggression, even if it turns out to be a case of emergency. But in such a fight

27. Urdu translation by Nā'ib Ḥusain Naqwī, pp. 554 *et seq.*

## *Punishment of Apostasy in Islam*

only the active combatants or their inciters will be killed, and women, anchorites and disabled or old people, who neither participate in the fighting nor exhort others to do so, will not be slain. In brief, the disbeliever who does not take up arms, does not urge others to fight and is not guilty of any hostile act in connection with the war shall not be put to death.

The second school is of the opinion that war with the disbelievers is grounded on their disbelief. That means that fighting is obligatory with them simply because they are infidels and not because they are inclined towards tyranny. This is the creed of Imām Shāfi'ī. Therefore, under this principle, every disbeliever who has attained majority and discretion would be deserving of capital punishment, irrespective of whether he is capable of fighting or not, whether he is himself on the war path or not and whether he is actively assisting his comrades (the disbelievers) to pursue the fight or not.

In this regard, Imām Ibn Taimīyyah considers the first opinion, viz. the opinion of the majority, to be correct and, in support of his position, cites authorities from the Qur'ān and the *Sunnah*.

The authorities referred to by the Imām include the very verse under discussion (*lā ikrāha fi'd-dīn*), which, he says, is neither abrogated nor circumscribed in scope by any incident or other consideration. He also cites the verses: "Fight in the way of Allah against those who fight against you, but begin not hostilities" (al-Baqarah, verse 191) and "Fight with them until presecution is no more and religion is only for Allah" (al-Baqarah, verse 194). Reliance is also placed by him on Traditions showing that the Prophet had forbidden the slaying of women because of their lack of capacity to fight and had never forced any war captives to adopt Islam. He points out that all wars of the Prophet were defensive in character—a subject he expounds in his *Risalat al-Qital*.

## *Apostasy and the Qur'ān*

Shaikh Maḥmūd Shaltūt, in his *Tafsīr al-Qur'ān al-Hakīm*,<sup>28</sup> also clearly endorses the view of Imām Ibn Taimiyyah by saying that disbelief alone cannot make it lawful to kill a disbeliever, but there must be an element of aggression and hostile transgression with it to justify action.

In the *Baḥr al-Muḥīṭ* the view of Imām Mālik and Kalbī that this *āyah* is not confined to the *ahl al-qital* but embraces within its pale all disbelievers, who may have elected to pay *Jizyah*, also finds a place. What is highly significant and important is that Ibn Ḥayyān gives prominence to the more logically consistent interpretation (which is in conformity with the letter and spirit of the Qur'ān) that even a person who renounces Islam for another religion cannot be compelled to revert to his former faith. Then follows the opinion attributed to Abū Muslim and al-Qifal that the meaning of the verse is that God has not based matters of *imān* (faith) on compulsion and force but on voluntary and free choice, for the arguments in favour of *Tauḥīd* (Divine Unity) have become manifest by full exposition. After that, there is no excuse left for disbelief so that one may say that the disbeliever should be obliged to adopt the faith and be bound to it. But that is not permissible in this world of trial and tribulation, for coercion and constraint for the faith negatives the reality of trial and testing. This reasoning is also adverted to by al-Zamakhsharī in *al-Kashshāf* and by Alūsī in his *Ruḥ al-Ma'ānī*. The former cites the Qur'ānic verse: "If thy Lord had willed (enforced His Will), all who are in the earth would have believed together; wouldst thou compel men until they are believers?" (Yūnus, verse 100) as authority

28. P. 427.



## *Punishment of Apostasy in Islam*

sanctioning this opinion.

Ibn Kathīr<sup>29</sup> apparently takes a broad view of this verse and remarks that it would serve no useful purpose for a person blind of heart and whose hearing and seeing faculties are sealed by Providence, to enter the fold of Islam, under coercion. He then mentions the *shān-i-nuzūl* to be the case of the Anṣār woman who wanted to retrieve her son from the Jews but adds that the injunction contained in the verse is general in character.

The *Tafsīr al-Manār*<sup>30</sup> describes the commandment contained in this verse as one of the greatest principles of the Islamic faith and one of the majestic pillars of Islamic polity (*siyāsah*). The compiler formulates the principle in these terms: "It is not permissible to subject anyone to coercion to make him accept Islam, nor will anyone be heard to say that a member of his household was compelled to go out from it," and cites the verse: "And if thy Lord had willed, all who are in the earth would have believed together" in corroboration of this position.

It has also been suggested<sup>31</sup> that, though no one can be forced to adopt Islam against his will, yet if he once joins the Islamic community voluntarily, he will not be allowed to leave the sacred fold but will be compelled to recant if he commits apostasy. To the charge of inconsistency of this view with the verse under discussion and other verses of similar import, the reply is made that the inconsistency would vanish if the proselyte is forewarned that once he voluntarily enters the fortress

29. H. 'Imād-ud-Dīn Abu'l-Fidā' Ismā'il b. Kathīr, *Tafsīr al-Qur'ān al-Azim*, Vol. I, p. 310.

30. Rashīd Riḍā', op. cit., Vol. III, p. 39.

31. Abu'l-A'lā Maudūdī, op. cit., pp. 50-1.

of Islam, he will not be permitted to leave it alive. In the humble opinion of the present writer, no semantic strait jacket can possibly yield such an implication from the text of this verse.

(4) And if they argue with thee (O Muḥammad), say: I have surrendered myself completely to Allah and (so have) those who follow me. And say to those who have received the Scripture and those that are unlettered: Have you (also) surrendered? If they surrender, then truly they are rightly guided, and if they turn away, then it is thy duty to convey the message (unto them). And Allah is watchful of (His) bondmen (Āl-i-'Imrān, verse 21).

(5) Say: O people of the Scripture! come to an agreement between us and you: that we shall worship none but Allah and that we shall ascribe no partner unto Him and that none of us shall take others for lords besides Allah. And if they turn away, then say: Bear witness that we are they who have surrendered (unto Him) (Āl-i-'Imrān, verse 65).

(6) He who turns back on his heels, shall do no hurt to Allah at all and Allah will reward the thankful (Āl-i-'Imrān, verse 145).

(7) Whoso obeys the Messenger obeys Allah and whoso turns away, (then) We have not sent thee as a warder over them (al-Nisā', verse 81).

(8) And whoso opposeth the Messenger after the guidance (of Allah) has become manifest to him and follows other than the believers' way, We appoint for him that to which he has himself turned and cast him into Hell—a hapless journey's end (al-Nisā', verse 116).

(9) And if you disbelieve, lo! to Allah belongs what-

### *Punishment of Apostasy in Islam*

soever is in the heavens and whatsoever is in the earth and Allah is Self-Sufficient, Owner of Praise (al-Nisa', verse 132).

(10) For each of you, We have prescribed a Divine Law and a traced-out way. Had Allah willed He could have made you one community but (He wishes) to try you by that which He has given you. So vie with one another in good works (al-Ma'idah, verse 53).

(11) Obey Allah and obey the Messenger and beware! But if you turn away, then know that the duty of Our Messenger is only plain conveyance (of the message) (al-Ma'idah, verse 93).

(12) The duty of the Messenger is only to convey (the message). Allah knows what you proclaim and what you hide (al-Ma'idah, verse 100).

(13) O you who believe! you have charge of your own souls. He who goes astray cannot injure you if you are rightly guided. To Allah you will all return; and then He will inform you of what you used to do (al-Ma'idah, verse 106).

(14) And if their aversion is grievous unto thee, then if thou canst, seek a way down into the earth or a ladder unto heaven that thou mayest bring unto them a portent (to convince them all)! If Allah willed, He could have brought them all together to the guidance—so be not thou among the foolish ones (al-An'am, verse 36).

(15) We send not the messengers save as bearers of good news and as warners. So those who believe and do right, no fear shall come upon them, neither shall they grieve (al-An'am, verse 49).

(16) Thy people (O Muhammad) have denied it, though it is the truth. Say: I am not put in charge of you (al-An'am, verse 67).

*Apostasy and the Qur'an*

(17) Proofs have come unto you from your Lord, so whoso sees, it is for his own good and whoso is blind is blind to his own hurt. And I am not a keeper over you (al-An'am, verse 105).

(18) Had Allah willed, they would not have set up gods with Him. We have not set thee as a keeper over them, nor are thou responsible for them (al-An'am, 108).

(19) Thus have We appointed unto every Prophet an adversary—devils of mankind and Jinn, who inspire in one another plausible discourse through guile. If thy Lord willed, they would not do so: so leave them alone with their devising (al-An'am, verse 113).

(20) Say: For Allah's is the final argument—had He willed, He could have guided all of you (al-An'am, verse 150).

(21) And fight them until persecution is no more and religion is all for Allah. But if they desist, Allah is seer of what they do (al-Anfal, verse 40).

(22) And if they incline to peace, incline thou also to it and trust in Allah. Lo! He is the Hearer, the Knower (al-Anfal, verse 62).

(23) And if any one of the idolaters seeks thy protection (O Muhammad), then protect him so that he may hear the word of Allah and afterwards convey him to his place of safety. That is because they are a folk who know not (al-Taubah, verse 6).

(24) Know they not that whoso opposes Allah and His Messenger, his portion verily is Hell, to abide therein. That is the extreme abasement (al-Taubah, verse 63).

(25) And if they deny thee, say: Unto me my work and unto you your work. You are innocent of what I do and I am innocent of what you do (Yunus, verse 42).

(26) And if thy Lord willed, all who are in the earth

### *Punishment of Apostasy in Islam*

would have believed together. Wouldst thou (Muḥammad) compel men until they are believers? (Yūnus, verse 100).

(27) Say: O mankind! now has the truth come to you from your Lord. So whosoever is guided only for (the good of) his soul and whosoever errs, errs only against it. And I am not a warder over you (Yunus, verse 109).

(28) And if thy Lord had willed, He verily would have made mankind one nation but they would not cease to differ, save him on whom thy Lord has mercy and for that He did create them (Hūd, verses 119-120).

(29) And most men will not believe even though thou ardently desire (it) (Yūsuf, verse 104).

(30) Do not those who believe know that, had Allah willed He could have guided ail mankind (al-Ra'd, verse 32).

(31) And Allah's is the direction of way and some (roads) go not straight (al-Naḥl, verse 10).

(32) Whosoever follows the right way, follows it only for the good of his own soul and whosoever errs, errs only to its hurt. No laden soul can bear another's load. We never punish until We have sent a messenger (Bani Isrā'il, verse 16).

(33) Say: (It is) the truth from your Lord. Then whosoever will, let him believe and whosoever will, let him disbelieve. Verily We have prepared for the wrongdoers fire whose (flaming) canopy shall enclose them (al-Kahf, verse 30).

(34) Say: Obey Allah and obey the Messenger. But if you turn away, he is responsible for what he is charged with and you are responsible for what you are charged with. If you obey him, you will go aright. And the Messenger has no other charge than to convey (the message) plainly (al-Nūr, verse 55).

*Apostasy and the Qur'ān*

(35) Nor canst thou lead the blind out of their error. Thou canst make none to hear, save those who believe Our revelations, so they submit (al-Naml, verse 82).

(36) And whoso goes right, goes right only for (the good) of his own soul; and as for him who goes astray—say: I am only a warner (al-Naml, verse 93).

(37) Surely thou canst not guide whomsoever thou lovest; but Allah guides whomsoever He pleases; and He is best aware of those who walk aright (al-Qaṣaṣ, verse 57).

(38) For verily thou (Muḥammad) canst not make the dead to hear, nor canst thou make the dead to hear the call, when they retreat, turning their backs; nor canst thou guide the blind out of their error. Thou canst make none to hear save those who believe in Our revelations so that they submit (to Him) (al-Rūm, verses 53-54).

(39) And as for him who disbelieves, let not his disbelief grieve thee; unto Us is their return and We shall tell them what they did. Lo! Allah is aware of what is in the breasts (of men) (Luqmān, verse 24).

(40) Is he, the evil of whose deeds is made far-seeing unto him so that he deemeth it good (like one who believes and does good deeds)? Verily Allah lets go astray whom He wills and guides whom He wills. So let not thy soul expire in sighings for them. Lo! Allah is aware of what they do! (al-Fāṭir, verse 9).

(41) Verily We have revealed to thee the Book for mankind with truth. Then whoever follows guidance, it is for his own soul and whoever goes astray, strays only to its hurt. And thou art not a warder over them (al-Zumar, verse 42).

(42) Lo! those who disbelieve and hinder (man) from the Way of Allah and oppose the Messenger after guid-

### *Punishment of Apostasy in Islam*

ance has become manifest to them, they hurt Allah not a jot, and He will make their actions fruitless (Muḥammad, verse 33).

(43) We are best aware of what they say and thou art in no wise a compeller over them. But warn by the Qur'an him who fears My warning (Qaf, verse 46).

(44) Obey Allah and obey His Messenger; but if you turn away, then the duty of Our Messenger is only to convey (the message) plainly (al-Taghābun, verse 13).

(45) (My responsibility is) only conveyance (of the truth) from Allah and His Messages, and whoso disobeys Allah and His Messenger, surely for him is the fire of Hell wherein he shall abide (al-Jinn, verse 24).

(46) Remind them, for thou art but a remembrancer; thou art not at all a warder over them (al-Ghashiyah, verses 22-23).

(47) Unto you your religion and unto me my religion (al-Kāfirūn, verse 7).

These Divine ordinances provide the keynote for the conduct of Muslims in war and peace. The climate of tolerance and human liberty which they signalise would form an illuminating background for a true understanding of the Qur'anic injunctions which bear directly or indirectly on the fate of those for whom the truth is obscured by the workings of their erring minds and who decide to give up their allegiance to Islam for another creed. It is manifest that the Divine Scheme envisaged by the Qur'an gives ample scope for the evolution of the human personality during its earthly existence, in an empirically oriented atmosphere. The Qur'an declares expressly: "And verily We shall try you till We know those of you who strive hard (for the cause of Allah) and

### *Apostasy and the Qur'ān*

the steadfast *and till We test your record*. And We will make known the (true) facts about you" (Muḥammad, verse 32). Guidance for the good life is furnished but not at the cost of suppression of human dignity. Vistas of a future life in which the fruits of action in the present life are to be harvested are also held up before the thinking individual, but the existential choice is left to the individual himself. No reward can be earned by action motivated by coercion—the mind and hand of man must be in harmony if best results of his activity are to be ensured. Islam to be Islam must be accepted absolutely voluntarily by a free person.<sup>32</sup> The Qur'an talks of "the nature (framed) of Allah in which He has created man" (al-Rūm, verse 31). The "nature of Allah" is Divine Unity which carries within its concept, by implication, the unity of mankind. This nature, in other words, is Islam and to it the Prophet in a well-known saying referred when he said: "Every child is born according to the *Fitrah* (Nature), and then his parents make him a Jew, a Christian or a Magian" (Bukhārī). The religion to which unsullied human nature conforms and instinctively reacts is Islam, but it is his environment and the training he receives under the tutelage of his parents that subsequently fashion his beliefs. After distinguishing the true from the false, God's Book leaves the individual sensibility free choice of direction in the spiritual realm.

#### *Section II—Verses Bearing on Apostasy*

The verses in the Qur'an which refer to apostasy and its effects are dispersed throughout the *Word of God*. We will consider them in the order in which they appear in the Qur'an.

32. Al-Sāmarā'i, op. cit., p. 73.



### *Punishment of Apostasy in Islam*

(1) And they will not cease from fighting against you till they have made you renegades from your religion, if they can. And whoso from among you turns back from his Faith *and dies while he is a disbeliever*: such are they whose works shall be vain in this world and in the Hereafter. These are the inmates of the Fire and therein they shall abide (al-Baqarah, verse 218).

The verse clearly envisages the natural death of the renegade after apostasy. The word used in the Arabic text *fa-yamūt* is significant. At another place, the Qur'an itself distinguishes between natural death and death by being slain, in the verse: "And Muḥammad is but a messenger; messengers (the like of him) have passed away before him. If then he *dies* or is *slain*, will you turn back on your heels?" (Āl-i-'Imrān, verse 195). The two words in the original are *māta* and *qūtila*. The implication of the verse is unmistakable that the Qur'anic Scheme visualises an apostate dying a natural death and there is no hint here that he can be killed for his defection. That the verse is addressed to Muslims is borne out by the expression *minkum* (from among you) and the reference is thus to a Muslim who becomes a renegade. Shaikh Ismā'il Ḥaqqī, in his *Ruḥ al-Bayān*,<sup>33</sup> says in respect of this verse: "This contains a warning against apostasy and in it is inducement to revert to Islam, after apostasy, till the time of death." This commentator, therefore, clearly contemplates the period of repentance to be coterminous with the death of the renegade. Zamakhsharī also interprets the verse<sup>34</sup> in the sense that it imports the death of the renegade in a state

33. Vol. I, pp. 335.

34. Al-Sāmarā'i, op. cit., pp. 22, 319-26.

### *Apostasy and the Qur'ān*

of apostasy. The consequences of such apostasy are declared in the verse to be "his deprivation of the fruits of Islam enjoyed by Muslims in this world and falling away of the reward in the Hereafter, due to his continuing in a state of apostasy till death," in the words of Zamakhshari. This view is also shared by Alūsī Baghdādī<sup>35</sup> and other commentators like al-Qasimī<sup>36</sup> and al-Nishāpūrī.<sup>37</sup>

There is difference of opinion among commentators as to whether death in the condition of apostasy is necessary to wash away his good deeds, performed when he was a Muslim, or whether the incidence of apostasy simpliciter would have that effect, and authorities of Imām Shafī'ī, Imām Abū Ḥanīfah and Imām Malik are cited in support of opposing views. A further difference of opinion exists on the question whether the *thawāb* (reward) of his good deeds reverts to him on his return to the true faith subsequently or not. Opinions of Fakhr al-Dīn Rāzī, al-Qurṭubī, al-Ṭabarasī and al-Alūsī are discussed in this context by al-Sāmara'ī.<sup>38</sup> Ṭabarasi goes to the length of saying that apostasy has the effect of wiping out all actions of the renegade and it is as if those actions had never been, initially. However, Nishāpūrī commits himself to the view that, among other disadvantages incurred by the renegade, he is to be fought against, till overpowered and then killed. For this extreme view apparently no authority is cited. It is pertinent to observe, however, that fighting with an apostate (who is inclined to fight) is quite different from adjudging an apostate liable to the capital sentence, as soon as apostasy occurs. An anonymous writer in the *Daily Zamīndār* of Lahore, dated 15 October

35-38. Ibid.

### *Punishment of Apostasy in Islam*

1924, advanced the wholly unacceptable suggestion that the words *ḥabīṭat a'mālahum fi'd-dunyā* (their actions in this world become null and void) could be equated on the authority of *Tafsīr Khāzan*<sup>39</sup> with "they (the apostates) are to be wiped off the surface of the earth." The attempt to shift the consequences of apostasy from actions of the apostate to his person, by a linguistic *tour de force*, must rank as one of the curiosities of polemical literature. The *Tafsīr Khāzan*, apparently, only categorises the generally accepted consequences of apostasy, according to orthodox tradition, included among them being the penalty of death, in the comment under the word *ḥabīṭa*, without suggesting an etymological connection between the word and the penalty. Another brave suggestion emanated from an anonymous writer in the *Zamīndār* dated 20 March 1925 that the word *fayamūt* (and he dies) is not inconsistent with other punishments like death being inflicted on him. This must be passed over without comment. Samuel M. Zwemer, in *The Law of Apostasy in Islam*,<sup>40</sup> categorically asserts that al-Tha'ālībī and Rāzī in their commentaries on the Qur'ān uphold the view that this verse, "whatever its grammatical construction may be, demands the death of the apostate." I regret I could not have access to al-Tha'ālībī's exegesis but I have studied the comments of Rāzī in his *Tafsīr al-Kabīr* under this verse and find no warrant for the above conclusion. I suspect that Tha'ālībī's comments may also have been misunderstood. Change of faith on the part of a Muslim might entail changes in his civil status as to rights of property or marital status,

39. *Tafsīr Khāzan*, Vol. I, p. 46 : Zwemer, *The Law of Apostasy in Islam*, pp. 34-5.

40. PP. 34-5.

## *Apostasy and the Qur'ān*

etc., but these incidents follow from other *nusūs* (texts), and additionally from the fact that this *āyah* declares all his actions to be null and void. A discussion of those incidents would lead us beyond the confines of our theme and must be reserved for another occasion. But the suggestion that this verse can be stretched to support the death penalty for apostasy is extremely farfetched.

(2) How shall Allah guide a people who disbelieved after their belief and who had borne witness that the Messenger is true and to whom clear proofs had come. And Allah guides not the wrongdoing people.

As for such, their guerdon is that on them rests the curse of Allah and of angels and of men combined.

They shall abide thereunder. Their doom shall not be lightened nor shall they be reprieved;

Save those who afterwards repent and do right. Lo! Allah is Forgiving, Merciful.

Surely those who disbelieve after their (profession of) belief and then increase in disbelief: their repentance will not be accepted. These are they who have gone astray.

As for those who have disbelieved and die while they are disbelievers, the (whole) earth full of gold would not be accepted from any one of them, if it were offered as a ransom (for his soul). Theirs will be a painful doom and they will have no helpers (*Āl-i-‘Imrān*, verses 87-92).

Commentators have given varying versions as to the occasion on which these verses were revealed. Ibn Jarīr Ṭabari narrates several such reports in his *Tafsīr Jāmi‘ al-Bayān*.<sup>41</sup> It is said:

(i) Verse 87 was revealed in connection with the case of Ḥarth

41. Vol. III, p. 224.

## *Punishment of Apostasy in Islam*

b. Sawaid Anṣārī (or his companion) who had apostatised from Islam but later wanted to revert to the true faith. (This version is also mentioned by Qurṭubī in his *al-Jāmi'*, *vide* al-Samarā'ī's *Aḥkām al-Murtadd*<sup>42</sup> where the authority of Ibn 'Abbās is cited for it.)

(ii) It was revealed to cover the cases of twelve persons, including Abū 'Āmir the anchorite and the above-mentioned Ḥarṭh, who became apostates and wanted to return to the fold of Islam.

(iii) This verse and verse 90 have reference to those People of the Scripture who had believed in Prophets like Moses, Jesus and others, but although they had read the prophesies about the Prophet Muḥammad in the Torah and the Bible, they refused to acknowledge him as a true Prophet.

(iv) It may also refer to those Muslims who had become renegades from Islam.

(v) Verse 90 in particular has reference to Jews who knew about the Prophet Muḥammad's advent from their own religious Books but denied him, nevertheless.

Rāzī in his *Tafsīr al-Kabīr*<sup>43</sup> has written comprehensively on the subject of its *shān-i-nuzūl*. According to the various glosses mentioned by him the following possibilities are open :

(a) The reference to increase in disbelief in verse 91 is intended to convey the idea that the persons concerned persisted and firmly adhered to their denial of the Prophet with vehement insistence.

(b) Over their first disbelief was superadded another disbelief. Under this head there are also variant traditions. One version is that the People of the Book had known of the Prophet's advent, denied him, and then increased in their disbelief, by active opposition to him and by intriguing against him. Another version confines it to Jews who believed in Moses but declined to accept

42. P. 32.

43. Vol. II, p. 491.

### *Apostasy and the Qur'ān*

Jesus and his mission, thus becoming disbelievers. They increased their disbelief by rejecting the Qur'ān and the Prophet Muḥammad.

(c) This was revealed to cover the case of those Muslims who became apostates and shifted to Mecca. During their stay in Mecca this disbelief was enhanced by their declaration that they would wait for misfortunes to befall the Prophet.

(d) This is intended to refer to persons who had joined the Islamic community as hypocrites and their hypocrisy was described as *kufṛ* (disbelief) by Allah.

The fact is that the words of the verses are general and would cover the case of Muslims who renounce Islam and then, by insistence on their disbelief, intensify it. As Qurṭubī<sup>44</sup> remarks in his *al-Jāmi'*, various opinions have been given about the subject of these verses but "we conclude from the general nature of the expressions used therein that they are applicable to those Muslims who had defected from Islam and, by insistence on their disbelief, intensified it."

The important thing to note about the contents of these verses is: firstly, that they hold out a promise of God's Grace, if there is genuine repentance on the part of the renegade and that repentance is not limited to any point of time, except that a death-bed repentance would not be acceptable as is expressly declared by the Qur'ān elsewhere (see *al-Nisā'*, verse 19); secondly, it is significant that the last of these verses contemplates the natural death of the apostates and there will be awaiting them a painful doom in the Hereafter. There is no suggestion, veiled or otherwise, conveyed by any of these verses that the apostate is to be punished for his disbelief here,

44. Al-Sāmarā'ī, op. cit., pp. 29, 30, 32, 39.

### *Punishment of Apostasy in Islam*

during his earthly existence.

(3) On the day when (some) faces will be whitened and (some) faces will be blackened; and as for those whose faces will be black, it will be said unto them: Did you disbelieve after believing? Taste then the punishment because of your disbelief (Āl-i-'Imrān, verse 107).

This clearly implies the negation of punishment till the Day of Reckoning in the Hereafter. Qatādah<sup>45</sup> was of the opinion that this verse applies to apostates, on the authority of a tradition narrated by Abū Hurairah. Qurṭubī also mentions this in his *al-Jāmi'*.

(4) Those who purchase disbelief, at the price of faith, harm Allah not at all but theirs will be a painful doom (Āl-i-'Imrān, verse 178).

Qurṭubī has commented on the authority of Ibn 'Abbās that this applies to those who forsake Islam for disbelief.<sup>46</sup> But no mention is made anywhere of any punishment being inflicted on an apostate, by a mundane tribunal, on the authority of this verse. Indeed the next verse talks of a Divine Plan to allow respite to such people who will increase in disbelief and deserve their doom. That would be a process spread over an undefined period of time.

(5) Those who believe, then disbelieve, and then (again) believe, then disbelieve, and then increase in disbelief, Allah will never pardon them nor will He guide them to the (right) way (al-Nisā', verse 138).

45-46. Ibid.

This is a striking pronouncement and almost conclusive against the thesis that an apostate must lose his head immediately after his defection from the faith. The verse visualises repeated apostasies and reversions to the faith, without mention of any punishment for any of these defections on this earth. The act of apostasy must, therefore, be a sin and not a crime. If he had to be killed for his very first defection, he could not possibly have a history of conversions. This interpretation also found favour with Maulānā Abu'l-Wafā' Thanā' Ullāh of Amritsar, a well-known Ahl-i-Ḥadīth scholar, *vide* his *Islam aur Masihīyyat*.<sup>74</sup> The learned author has discussed this verse therein, in conjunction with the relevant *Aḥādīth*.

Al-Sāmārā'ī<sup>48</sup> quotes from Qurṭubī the opinion based on the authority of *Nihāyah* that this verse relates, among others, to *Murtaddīn* (apostates). It is also, incidentally, inconsistent with the theory of repentance being admissible for a fixed period of three days or more (which we will discuss later on) for the words *azdādū kufra*n (increase in disbelief) introduce an element of indefiniteness as regards any such temporal limitations on the chance to reform. The author of *Ruh al-Ma'ānī*<sup>49</sup> traces an opinion to Ḥasan al-Baṣrī that this verse pertains to a group of people from the *Ahl al-Kitāb* (People of the Book) who decided to create doubts about the religion in the minds of the Companions of the Prophet, by professing faith in their presence, then saying that a doubt had afflicted them, again professing faith, and then again proclaiming that another doubt had

47. Pp. 202-4 ; also Ālūsī, *op. cit.*, Vol. III, pp. 199-200, and Ibn Ḥayyān, *op. cit.*, Vol. II, p. 493.

48. *Op. cit.*, pp. 29, 30, 32 and 39.

49. Vol. V, pp. 153-4.



### *Punishment of Apostasy in Islam*

arisen in their minds and finally persisting in their disbelief till death. History does not record the slaying of any such person for his disbelief, at any stage. Hasan thought this episode was also reflected in the verse: "And a party of the People of the Scripture say: Believe in that which has been revealed unto the believers, at the opening of the day and disbelieve at the end thereof, in order that they may return" (Āl-i-'Imrān, verse 73).

(6) The only reward of those who make war upon Allah and His Messenger and strive to create disorder in the land will be that they will be killed or crucified or have their hands and feet, on alternative sides, cut off or will be expelled out of the land. Such will be their degradation in the land and in the Hereafter; theirs will be an awful doom, save those who repent before you overpower them. For know that Allah is Forgiving, Merciful (al-Mā'idah, verses 34-35).

According to Ibn 'Abbās,<sup>50</sup> this verse has relevance to the tribe of Hilāl b. Uwaimar, who were polytheists and who had killed and looted members of the Bani Kanānah when the latter had declared their intention to migrate and accept Islam. He explained that the various punishments mentioned in the verse could be inflicted alternatively to suit the nature of the crime—if it was a case of murder unaccompanied by any other crime, the punishment would be death; if in addition there was robbery or dacoity, the delinquents would be crucified, and if it was a case of deprivation of property alone, the cutting off of the right hand and the left foot

50. *Tafsir*, with al-Suyūṭī, *Lubab al-Nuqūl fī Asbāb al-Nuzūl* (Urdu translation), Vol. I, pp. 264 *et seq.*

### *Apostasy and the Qur'an*

would be appropriate. In a simple case of intimidation without more, if captured immediately after the crime, the culprits could be imprisoned. If, however, before they are overpowered, the criminals repent, then God Almighty would be Forgiving and Merciful.

Suyūṭī in the *Lubab al-Nuqūl fī Asbāb al-Nuzūl*<sup>51</sup> and Ṭabarī in the *Jāmi' al-Bayān*<sup>52</sup> mention a report from Anas and another from 'Abdur Razzāq who traces it from Abū Hurairah, that this verse was revealed with reference to the people of 'Urinah, who, when ailing, were sent to live with the flock of camels of the Prophet, under the charge of his grazier. They became renegades, brutally killed the grazier and drove away the camels. They were brought back and subjected to the same treatment as they had meted out to the grazier. M. Muḥammad Shafi', of the Dār al-'Ulūm, Deoband, writing in the Daily *Zamindār* (Lahore) dated 23 and 24 October 1924, roundly suggested that the verse pertained to persons who became apostates in the Prophet's time and were killed on that account. This is not quite accurate for they had committed the crime of murder with torture and dacoity or robbery as rebels, besides leaving the fold of Islam and the presumption that they were killed for apostasy alone is not consistent with the facts. This incident is also related with all its details in *Ṣaḥīḥ al-Bukhārī*,<sup>53</sup> *Fatḥ al-Bārī*,<sup>54</sup> *Umdat al-Qārī*<sup>55</sup> and by the author of *Ruḥ al-Ma'ānī*,<sup>56</sup> but the latter prefers

51. Ibid.

52. Pp. 223-4.

53. Nā'ib Naqwī and Muḥammad 'Alī, Tr., Arabic-Urdu, Vol. III, pp. 555-6.

54. Al-'Asqalānī, *Fatḥ al-Bārī*, Vol. XI, pp. 91-2.

55. Al-'Ainī, *Umdat al-Qārī*, Vol. XI, p. 143.

56. Vol. VI, pp. 118-22.

### *Punishment of Apostasy in Islam*

the authoritative report (which is endorsed by al-Ṭabarānī and on which practically all *Fuqahā'* are agreed, according to him) that the revelation came to cover the case of highwaymen, robbers and dacoits. He points out that the expression "who make war on Allah and His Messenger" is meant to refer to "people who make war against the Muslims," i.e. against the community. He also notices differing opinions as to whether the words *Yunfau min al-ard*, occurring in the verse, mean "they will be imprisoned" or "they will be banished from the land". Both variants are etymologically possible. He reasons that in the verse it is said that the opportunity for repentance would be gone after they have been overpowered but in the case of *Murtaddīn*, *Taubah* (repentance) is always possible irrespective of whether they are in the power of the Muslims or not, and consequently he favours the highwaymen version. *Hadd* (prescribed punishment), he says, once incurred in Islam, does not lapse. He significantly adds that the ground of revelation does not control the meaning of the verse, for the interpretation, as has been acknowledged, is made in accordance with the generality of the expression used and does not rest on the specific occasion for the revelation.<sup>57</sup> This principle is referred to with approval by Rāzī in *Tafsīr al-Kabīr*.<sup>58</sup> Zamakhsharī<sup>59</sup> and Baiḍāwī<sup>60</sup> also fall into line with others in accepting the application of the verse to highwaymen, free-booters, etc., i.e. active rebels. Rāzī in *Tafsīr al-Kabīr*<sup>61</sup> has recounted all variant opinions under this verse, including those detailed above.

57. Ibid.

58. Vol. III, p. 407.

59. Op. cit., Vol. I, pp. 227 *et seq.*

60. *Tafsīr* on the margin of *al-Qur'ān al-Hakīm* (Egypt), p. 114.

61. Op. cit., Vol. III, p. 407.

### *Apostasy and the Qur'ān*

What constitutes *Muḥāribah* (making war), as mentioned in this verse, is also a question on which there exists some controversy. It is noteworthy that in the Qur'ān itself, the person who inspired the idea of "Masjid-i-Ḍarār," for creating differences and dissensions among the Muslims (he is said to be one, Abū 'Āmir Rahib) is referred to, as one who warred against Allah and His Messenger.<sup>62</sup> The identification of this warring opponent with Abū 'Āmir is mentioned in *al-Durr al-Manthūr* of al-Suyūṭī,<sup>63</sup> on the authority of Mujāhid. The sinister part played by Abū 'Āmir in this episode is described in the *Baḥr al-Muḥīṭ*,<sup>64</sup> and it is emphasised therein that he was an active enemy of the Muslims, who had promised to bring soldiers from Rome to fight them. In another part of the same book<sup>65</sup> the dicta of Ibn 'Abbās that *Muḥāribah* is *Shirk* (polytheism) and that of 'Urwah that it is equated with *Irtidād* (apostasy) are contested and characterised as *ghair ṣaḥīḥ 'ind al-jamhūr*—not correct according to the majority of the doctors. The above-mentioned writer in the *Zamindār* has relied upon a saying of Sa'id b. Jābir that *Muḥāribah* means disbelief and has further cited the opinion of Ibn Baṭāl from *Fatḥ al-Bārī*<sup>66</sup> (which is a commentary on the *Ṣaḥīḥ al-Bukhārī*) in its support. 'Aini<sup>67</sup> too ascribes an opinion to Bukhārī that by *Yuhāribun Allah* is meant disbelievers. 'Aini himself apparently, while commenting on the dictum in the *Hidāyah* that an apostate is a *Ḥarbi* (fighter),<sup>68</sup>

62. Sūrah Taubah, verse 107.

63. Vol. III, p. 276.

64. Vol. V, p. 98.

65. Vol. III, p. 471.

66. Vol. XI, pp. 91-2.

67. Op. cit., Vol. XI, pp. 143-4.

68. Ibid.

### *Punishment of Apostasy in Islam*

says that this classification is correct as he is neither a *Dhimmi* nor a *Mustā'min*. This process of elimination ignores the fact that there can be a third category of disbelievers—*Mu'āhids*—people with whom there is a pact of mutual defence. But Baiḍāwī and Alūsī give the root meaning of *ḥarb* as *aṣ-ṣalab* or as *aṣ-ṣalab wa'l-akhz*, i.e. forcible deprivation or seizure of property. Etymologically, therefore, the equation of *Muḥāribah* with disbelief or apostasy has not much to commend itself. Its identification with these two phenomena probably has its genesis in an insufficient appreciation of relevant historical facts. In this context it may be useful to remember the Divine injunction: "Whosoever kills a human being for other than manslaughter or corruption in the earth, it shall be as if he had killed all mankind" (al-Mā'idah, verse 33).

Muslim scholars in recent times have expressly declared that disbelief by itself does not justify killing of the disbeliever but that there must be superadded thereto an element of either war against Muslims or enmity against them or creation of circumstances which make their profession of the faith a trial for them, to justify such action. Shaikh Maḥmūd Shaltūt has forcefully expressed himself on this point in his book *al-Islām, 'Aqīdah wa Shari'ah*.<sup>69</sup> He has also reiterated his opinion in connection with the interpretation of the verse: "And end not the life that Allah has made sacred, save in the course of justice" (al-An'ām, verse 152), in his *Tafsīr*.<sup>70</sup> Al-Samarā'ī<sup>71</sup> has marshalled other authorities in support of this position—notably those of Ibn Daqīq

69. pp. 300-1.

70. *Tafsīr al-Qur'ān al-Ḥakīm*, p. 427.

71. Op. cit., pp. 115-6.

## *Apostasy and the Qur'an*

cited from his *Alḥkām al-Aḥkām Sharḥ 'Umdat al-Aḥkām* and San'ānī (quoted from his *Fī al-'Iddah 'alā al-Aḥkām al-Aḥkām*).

The Ahnāf and the Imāmīyyah, in contrast with other schools of thought, further differentiate between male and female apostates and hold that female apostates are not to be killed but only imprisoned, on the ground that they are not capable of fighting actively. The subject will be found discussed adequately by al-Sāmarā'ī<sup>72</sup> in *Alḥkām al-Murtadd*, wherein the relevant authorities are cited. Reference in this connection may also be made to *al-Mughnī*<sup>73</sup> by Ibn Qudāmah, *Muqadḍamah*<sup>74</sup> by Ibn Rushd, *Fatḥ al-Bārī*,<sup>75</sup> *'Umdat al-Qārī*,<sup>76</sup> *Fatḥ al-Qadīr*,<sup>77</sup> *Hidayah*,<sup>78</sup> and *Ināyah*,<sup>79</sup> wherein instances of the Prophet forbidding the killing of women for their lack of fighting capacity, are mentioned and the view is upheld that the slaying of a person is grounded on *ḥirāb* (fighting or active enmity) and not merely on change of faith. In the early years of Islam, the fact that persons who defected from the religion also joined the enemy groups may have obscured the distinction between peaceful renegades and apostates who actively opposed the faithful. Chalpi<sup>80</sup> in his comments on *Fatḥ al-Qadīr* cites Ibn al-Hammām's opinion that "there is no punishment for the act of apostasy, for its punishment is greater than that, with God." This is an extremely significant comment, in harmony with the letter and spirit of the Qur'anic text.

72. Ibid., pp. 213 *et seq.*

73. Vol. VIII, p. 123.

74. Vol. I, p. 371.

75. Vol. VIII, p. 223.

76. Vol. XI, pp. 232-9.

77-80. *Sharḥ Fatḥ al-Qadīr 'alā al-Hidayāh Sharḥ Badāyah* and on its margin, *Sharḥ al-'Ināyah 'alā al-Hidayāh* with commentary by Chalpi on *Fatḥ al-Qadīr*, Vol. IV, pp. 388-9.

### *Punishment of Apostasy in Islam*

(7) O ye who believe! whoso of you becomes a renegade from his religion, (know that in his stead) Allah will bring a people whom He loves and who love Him, humble towards believers, stern towards disbelievers, striving in the way of Allah, and fearing not the blame of any blamer. Such is the grace of Allah, which He gives unto whom He will. Allah is All-Embracing, All-Knowing (al-Mā'idah, verse 55).

Al-Samarā'ī<sup>81</sup> has collected opinions of exegetists like al-Ṭabarī, al-Nishāpūrī, al-Qurṭubī, al-Zamakhsharī, al-Rāzī, and al-Ṭabarasī, on the interpretation of this verse. Their opinions may be summed up by saying that the verse embodies a warning and a prophecy. The warning conveyed was that apostasy would not affect Divine purposes in the least. The prophecy foreshadowed the apostasy of several tribes on the death of the Prophet and gave the glad tidings that they would be replaced by God-loving and God-loved, true Muslims. The main inference derivable from the verse is that there is no punishment for apostasy to be enforced in this world, for such human aberrations cannot frustrate God's purposes.

(8) Whoso disbelieves in Allah after he has believed—save him who is forced thereto and whose heart is still content with faith—but such as open their breasts to disbelief: on them is wrath from Allah. Theirs will be an awful doom (al-Nahl, verse 107).

The only punishment mentioned for apostasy in this verse is postponed to the Hereafter. Al-Samarā'ī<sup>82</sup> in his

81. Op. cit., pp. 23-8.

82. Ibid., pp. 30-1.

### *Apostasy and the Qur'ān*

comment on this verse has quoted from Qurṭubī's *al-Jāmi'* the remark that the verse conveys an admonition that the wrath of Allah will be incurred by the apostate but there is no hint of any other punishment. Dr Samuel M. Zewmer's<sup>83</sup> conjecture that commentators derive justification for the death penalty from this verse read with verse 218, al-Baqarah, is fanciful. The mere fact that in the *Tafsir Khāzan*, the various disabilities (including the death sentence) to which an apostate is subject, according to the orthodox view, are categorised under verse 218 of al-Baqarah, cannot support this view, as Dr Zwemer seems to imagine.

(9) And among mankind is he who worships Allah on a narrow marge. Then if good befalls him, he is content therewith, but if a trial befalls him, he returns to his (former) way. He loses both this world and the Hereafter. That is a manifest loss (al-Ḥajj, verse 12).

Qurṭubī,<sup>84</sup> in his *al-Jāmi'*, records that according to some exegetists this verse was revealed with reference to some Arabs who had accepted Islam and adhered to the faith as long as they enjoyed ease and comfort, but as soon as they encountered hardship, they became renegades. Another report links it with the case of al-Naḍr b. al-Ḥārith and still another connects it with that of Shībah b. Rabī'ah who apostatised in circumstances similar to those mentioned above. There is no historical evidence forthcoming that any such person or persons were executed for their defection from the faith.

(10) Those who disbelieve and hinder (men) from

83. Op. cit., pp. 34-5.

84. Vide al-Sāmarā'i, op. cit., p. 31.



### *Punishment of Apostasy in Islam*

the way of Allah and oppose the Messenger, after the guidance has become manifest to them, hurt Allah not a jot, and He will make their actions fruitless (Muḥammad, verse 33).

Al-Sāmarā'i<sup>85</sup> observes that this verse may possibly be in respect of disbelievers or may concern apostates as the context shows that both possibilities are open. This verse too never appears to have been invoked in support of the death penalty for apostasy. The Sūrah "Muḥammad" starts with a declaration that Allah renders the actions of disbelievers and of those who oppose Allah vain. In the 5th verse of the Sūrah, Muslims are enjoined to fight the disbelievers vigorously when they meet them in regular battle, till such time as "the war lays down its burdens". This means that war is permitted only to ensure peace and not for aggression.

(11) O Prophet! strive hard against the disbelievers and the hypocrites and be stern with them. Their resort is Hell, a hapless journey's end (al-Taḥrīm, verse 10).

These words are identical with those of Sūrah "Taubah" (verse 73). This text by no means justifies the killing of a *Murtadd* (apostate) or a *Munāfiq* (hypocrite), wantonly, unless there is resort to war on their part. The word *Jāhid* occurring in these two verses does not necessarily mean "taking up arms". An earnest effort would be as much within the scope of its connotations as war. In the *Fatḥ al-Bayān*<sup>86</sup> we have the following comment on these words:

Ṭabarī has said : The opinion to be given preference, according

85. Ibid., p. 33.

86. Vol. IV, p. 134.

## *Apostasy and the Qur'an*

to me, is that contained in the statement of Ibn Mas'ud that *Jihād* means the exercise of vigorous effort. The *āyah* implies that *Jihād* against the hypocrites is sanctioned but there is no specification of its nature in the verse. It is, therefore, necessary to resort to other guidance. Detailed reasoning has established that *Jihād* against disbelievers is to be with the sword and against the hypocrites by adducing of arguments against them at one time, abandoning kindness towards them at another time and sacrifice on another occasion, and this is what Ibn Mas'ud says.

The treatment of hypocrites constitutes a very instructive chapter of Islamic polity. That the character of their professed belief and their identity was known is patent from several verses of the Qur'an. A study of the following, among others, would be rewarding, in this context :

(a) And of mankind are some who say : We believe in Allah and the Last Day, when they believe not (al-Baqarah, verse 9).

(b) And when they fall in with those who believe, they say : We believe, but when they go apart with their devils (ringleaders) they declare : Lo ! we are with you ; verily we did but mock. Allah Himself doth mock them, leaving them to wander blindly on, in their contumacy (al-Baqarah, verses 15-16).

(c) And when they fall in with those who believe, they say : We believe. But when they meet one another in private, they say : Prate ye to them of that which Allah hath disclosed to you that they may contend with you before your Lord concerning it. Have ye then no sense ? Are they then unaware that Allah knoweth that which they keep hidden and that which they proclaim ? (al-Baqarah, verses 77-78).

(d) And a party of the People of the Scripture say :

### *Punishment of Apostasy in Islam*

Declare your belief (outwardly) in that which has been revealed to the believers in the early part of the day and disbelieve in the latter part thereof ; perchance they may return (Al-i-Imrān, verse 73).

The persons described in this verse were well known, according to several commentators of the Qur'an. Reference in this connection may be made to *Baḥr al-Muḥit*,<sup>87</sup> *Reḥ al-Ma'ānī*,<sup>88</sup> *Durr al-Manthūr*,<sup>89</sup> and *Faṭḥ al-Bayān*,<sup>90</sup> among others. The first two cite reports that the verse has relevance to twelve leaders of the Jews of Khaibar and of 'Urwah or that it related to Ka'b b. Ashraf, the Jew, and his companions. The *Baḥr al-Muḥit* also gives an alternative version<sup>91</sup> that the Jews resented the change of *Qiblah* (the direction in which Muslims face during prayer) from Bait al-Muqaddas to the Ka'bah, and Ka'b b. Ashraf and his companions said: Pray in the same direction as they do in the morning and revert to the direction of the Dome of the Rock in the latter part of the day. This verse was then revealed. In either case the identity of the people in question was not in doubt and we have it from the author of *Baḥr al-Muḥit* that this conspiracy was actually acted upon. As has been noticed earlier, Ḥasan al-Baṣrī has also talked of a similar hypocritical group in the context of al-Nisā' (verse 138). The existence of these hypocrites continued to be tolerated within the body politic of Islam without physical interference with them.

(e) What aileth you that you are become two parties

87. Vol. II, p. 493.

88. Vol. III, pp. 199-200.

89. Vol. II, pp. 42-3 (quoted by M. Sher 'Alī).

90. Vol. II, p. 60.

91. Vol. II, p. 493.

### *Apostasy and the Qur'an*

regarding the hypocrites? And Allah has cast them back (to disbelief) because of what they earned? Seek ye to guide him whom Allah hath sent astray? He whom Allah sendeth astray, for him thou (O Muḥammad) canst not find a road.

They long that you should disbelieve even as they disbelieve, that you may be upon a level (with them). So choose not friends from them till they emigrate in the way of Allah; if they turn back (to enmity) then take them and kill them wherever ye find them, and choose no friend nor helper from among them;

Except those who seek refuge with a people between whom and you there is a covenant, or (those who) come unto you because their hearts forbid them to make war on you or make war on their own folk. Had Allah willed He could have given them power over you so that assuredly they would have fought you. So if they hold aloof from you and wage not war against you and offer you peace, Allah allows you no war against them.

You will find others who desire that they should have security from you and security from their own folk. So often as they are returned to hostility they fall headlong into it. If they keep not aloof from you nor offer you peace nor hold their hands, then take them and kill them wherever you find them. Against these We have given you clear authority (al-Nisā', verses 89-92).

It is plain that even these verses do not permit aggression against hypocrites. If they are peaceful, no action can be taken against them. It is only if they adopt open hostility that they are to be engaged in combat and killed. Only an unfair critic, like Dr Zwemer, could have suggested, as he does, by quoting only a part

### *Punishment of Apostasy in Islam*

of the verse that they furnish proof of lack of toleration and absence of personal liberty in Muslim Law.<sup>92</sup> Apparently Majid Khadduri<sup>93</sup> sees in this verse authority for the death penalty in a case of apostasy—an impossible position in the whole context.

(f) Lo ! Allah will gather hypocrites and disbelievers, all together into Hell (al-Nisā', verse 141).

(g) Lo ! the hypocrites (will be) in the lowest deep of the fire and thou shalt find no helper for them (al-Nisā', verse 146).

These two verses place the hypocrites on a lower level than unbelievers or at least equate them in respect of tortures in the Hereafter. It is not, therefore, that for the hypocrites there is a soft corner in the Qur'anic scheme and, because of it, their peaceful aberrations are to be ignored. The guiding principle is clearly the necessity of a free choice in matters of conscience. Because of their hypocrisy, however, the Prophet is directed to tell them that they will not be permitted to participate in *Jihād*, in the company of Muslims (al-Taubah, verse 83). In *ayah* 54 of Sūrat "al-Taubah" they are described as those "who disbelieve in Allah and His Messenger." In verse 56 of that Sūrah, it is clarified that, despite their oaths to the contrary, "they are not of you" and, in verse 84, the Prophet is forbidden to pray for any one of them if he dies, or to stand by his grave, "for they disbelieved in Allah and His Messenger and died while they were disobedient." So they are to be denied the blessings of the Prophet's prayer for them, but otherwise

92. Op. cit., pp. 33-4.

93. Op. cit., pp. 149-52.

### *Apostasy and the Qur'an*

they are left to die their natural deaths. Their delinquency is such that the Prophet is told (verse 80) that even if forgiveness is asked for them seventy times, they will not be pardoned by Allah as they were disbelievers. That their position is not different from that of *Murtaddin* is borne out by verse 74 of that Sūrah—“They swear by Allah that they said nothing (wrong), yet they did utter the word of disbelief and disbelieved after their (acceptance of) Islam and they purposed that which they could not attain and they cherished enmity (against believers) only that Allah by His Messenger should enrich them of His bounty.” Ibn Hisham<sup>94</sup> records in his “Life of the Prophet” that this verse was revealed in respect of Jalās b. Suwaid b. Šāmit who did not accompany the Prophet for the expedition to Tabak, and made a disparaging remark about the Prophet. When taxed with it, he denied on oath that he had said anything. Apparently no punishment was awarded to him. Other hypocrites are specifically named by Ibn Hisham and he even links their cases with certain verses of the Qur'an. They all remained free from punishment. In verse 66 also, it is proclaimed that they disbelieved after having believed. The opening verses of the Sūrat al-Munāfiqin declare that the hypocrites' proclamation of faith is false and “they have made their oaths a cloak, thus to hinder (men) from the path of Allah.” In the fourth verse of that Sūrah, it is clearly stated that they first believed and then disbelieved. But no one smote their necks on that account.

Indirect support is also provided for freedom of conscience in the Divine Scheme by the various recitals

94. *Sirat*, Urdu translation by M. Quṭb-ud-Dīn Aḥmad Maḥmūdī, Vol. II, pp. 203-5.

### *Punishment of Apostasy in Islam*

in the Qur'an to the effect that it was the disbelievers in the communities to which various Prophets were sent, who threatened to banish the Messenger of God from their lands, unless they reverted to their faith. Instances in point are of the people of Shu'aib (al-A'raf, verse 89) and of the Pharaoh threatening sorcerers with torture for daring to believe in "the Lord of Moses and Aaron," without asking for his permission (al-Shu'ara', verse 50). It is stated generally in verse 14 of Sūrah "Ibrāhīm": "And those who disbelieved said to their Messengers: We will surely expel you from our land, unless you return to our religion. Then their Lord sent unto them the revelation: We will surely destroy the wrongdoers." Such coercion or persecution could not be, therefore, commendable in the eye of God. The chief of the hypocrites in the Prophet's own time was 'Abdullah b. Ubayy b. Salūl, and history has recorded that he was not killed despite permission to do so being asked of the Prophet by no less a person than 'Abdullah's own son, who was a good Muslim.<sup>95</sup> He had by his perfidious conduct given offence to Muslims on several occasions, but his life was spared.

The position that emerges, after a survey of the relevant verses of the Qur'an, may be summed up by saying that not only is there no punishment for apostasy provided in the Book but that the Word of God clearly envisages the natural death of the apostate. He will be punished only in the Hereafter. The Qur'an also visualises the possibility of repeated apostasies by a person, thus negating the justification or necessity of enforcing the punishment of death on a person who declines to revert to Islam within a limited time, on his very first lapse.

<sup>95</sup>. Ibid.

### *Apostasy and the Qur'an*

Ibn Hayyān, a well-known exegetist, has expressly mentioned a definite opinion that no apostate can be coerced into rejoining the Muslim community. In fact, apostasy is treated as a sin and not as a crime by the Qur'an, albeit a very grave sin, but the time for repentance is extended, in God's infinite Mercy, to a lifetime short of the actual death agony. For God's purposes cannot be defeated by defections from the Faith of puny mortals, and so the Prophet is enjoined not to worry his soul out, in grief, for those who turn away. He is forbidden to force them to the straight path, for this would interfere with the Divine Scheme of life here being a trial for the human soul. It is repeatedly emphasised that his function is to convey the Message fully and leave the rest to God. The *Din* is to be established by goodly exhortation and not by threat of force. The Qur'an itself places hypocrites on a par with apostates but, in their case, history bears out a most humane and liberal policy of tolerance on the part of the Prophet. Violence is permitted to Muslims only against those who fight them or persecute them or spread disorder in the land and mere change of faith, provided the conversion is peaceful, is not actionable at all, in this phenomenal world. An essential element for force being permitted against a person is active hostility on his part and that is why some schools of thought among Muslims exempt women (who from their very nature are presumed to be incapable of bearing arms) and others who may be regarded as disabled, from the punishment for apostasy. The Qur'an includes a unique charter of liberty of conscience for mankind.



## Chapter II

### APOSTASY AND THE SUNNAH

#### Section I

Before taking up the specific *Aḥadith* (traditions) which are relied upon by the proponents of the death sentence for apostasy, it would be useful to clear the ground by a few observations concerning the relative positions of the Qur'an and the *Ḥadith*. Imām Shāfi'ī in his *al-Risālah*<sup>1</sup> has clearly enunciated the principle that the commandments contained in the Qur'an can be abrogated only by another verse of the Qur'an and not by any authority lower in status. He holds definitely that the *Sunnah* of the Prophet cannot perform any such abrogating function *vis-a-vis* the Qur'an, for it is itself subject to the Book of God in respect of all clear and well-defined Qur'anic texts (*Nusus*). Of course, he says, it can interpret, explain or expound, with subsidiary details, the summary commandments included in the Qur'an. In support of his position, Shāfi'ī cites the verse of the Qur'an :

And when Our Clear revelations are recited unto them, they who look for the meeting with Us, say : Bring a Qur'an other than this or change it. Say (O Muḥammad) : It is not for me to change it of my own accord. I only follow that which is revealed to me. Lo! if I disobey my Lord, I fear the retribution of an awful day (Yūnus, verse 16).

He also draws strength for his argument from verse

<sup>1</sup> Urdu translation by M. Amjad 'Alī, pp. 97 *et seq.*

107 of Sūrat al-Baqarah: "Whatever revelation We abrogate or cause to be forgotten We bring (in its place) one better or the like thereof. Knowest thou not Allah is able to do all things?"

It is thus Allah alone Who can change what has emanated from Him and, considering the fundamental position of the Qur'an in Islam, this stands to reason.

Maulānā Badr-i-'Alam Nadvī in his *Tarjumān al-Sunnah*<sup>2</sup> says, on the authority of extracts from Imām Shaṭibi's *al-Muwāfaqāt*, that the *Sunnah* occupies a place of secondary importance as compared with the Book of God and that generally it can be asserted firmly that the *Sunnah* cannot be placed on the same level with the Qur'an in point of regard and reverence. This is the reason why Taftazānī in his *Talwīḥ*<sup>3</sup> lays it down as a guiding principle that in case of conflict with the text of the Qur'an, *Khabar al-Wāḥid* (a tradition related by one person from another individual or by one person from a group or by a group from one person, so long as the number of narrators is less than those in the case of *Ḥadīth Mash-hūr* [reputed tradition]) will be rejected. Such a *ḥadīth* is said to be only *Mufid-i-Zann* (as raising only a presumption).

In the fourth chapter of *Hujjat-Allāh al-Bālighah*,<sup>4</sup> Part I, Shāh Walī Ullāh has categorised the extant compilations of traditions in their order of reliability and importance. He thinks that only *al-Muwatṭā'* of Imām Mālik, *Ṣaḥīḥ Bukhārī* and *Ṣaḥīḥ Muslim* deserve to be placed in the first category. The compilations like those of Abū Dāwūd, Tirmidhī, Ibn Mājah and Nasā'ī, which

2. Vol. I, pp. 118 *et seq.*

3. Pp. 229-31.

4. Urdu translation by M. 'Abdur Raḥīm, Vol. I, pp. 219-28.

### *Punishment of Apostasy in Islam*

are generally included among the *Ṣiḥāḥ Sittah* (the Six Accurate Books) and *Musnad* of Imām Aḥmad, he assigns to the second category. He adds that the *Muḥaddithin* (Experts in Tradition) consider these two categories only to be worthy of reliance and not the books falling in the third and fourth categories such as *Musnad* of Abī 'Alī, *Muṣannaf* of 'Abd-ur-Razzāq, *Muṣannaf* of Abī Bakr b. Abī Shaibah, *Musnad* of 'Abd b. Ḥamid, *Musnad* of Ṭayalisi, and books by Baihaqī, Ṭaḥāwī, Tabarānī, Ibn Ḥabbān, Ibn 'Adī, Khaṭīb, Abī Nu'aim, Ibn al-'Asākir, Khwārazmī, Ibn Najjār, Dailamī, and others. There are also fabricated *Aḥādith*, collected and criticised by Mulla 'Alī Qārī and Ibn al-Jauzī among others. Traditions themselves are differentiated *inter se* in order of authenticity and reliability. In point of priority they are designated as *Mulawātir* (continuous) *Mustafīd* (narrated in several ways and accepted), *Mash-hūr* (reputed), *Ṣaḥīḥ* (accepted as correct) and *Ḥasan* (approved), and the lowest tier in this hierarchy is that of *Khabar Aḥad*. The number and reliability of the chain of narrators, its continuity or otherwise, evidence of implementation or rejection, conformity with the Qur'ānic letter or spirit as well as with known historical or rational facts, are some of the factors which determine this order of priority. The human factor of lapse of memory or of failure to comprehend fully the circumstances surrounding a tradition is also a pertinent consideration. The classical instance of Ḥaḍrat 'Ā'yeshah,<sup>5</sup> the Prophet's wife, correcting Ibn 'Umar (or according to one version, Ḥaḍrat 'Umar, the Second Caliph, himself) in respect of his opinion that the lamentations of a deceased person's

5. Ibid., Vol. I, p. 655, and M. Sher 'Alī, *Qaṭṭ-i-Murtadd aur Islām*, pp. 100-1.

## *Apostasy and the Sunnah*

relatives entail torture in the after-life for the dead person is very apt in this context. Ḥaḍrat 'Ā'yeshah's comment was that the *ḥadīth* had not been properly understood or recollected. She explained that in fact the Prophet had passed by a Jewish woman who had died, and had seen her relatives lamenting, when he observed: "They are crying and she is being subjected to torture." It was wrongly assumed that there was a casual nexus between the two sentences uttered by the Prophet, and she cited the Qur'ān: "No bearer of burden can bear the burden of another" (al-An'ām, verse 165). She evidently invoked the principle that a *ḥadīth* could not possibly contradict a clear text of the Qur'ān and interpreted the reported tradition in its light. Shāh Wali Allāh too in his *Iqd al-Jīd* lays down the principle that *Sunnah* only explains the Qur'ān and can never contradict it.<sup>6</sup>

### *Section II*

(1) The principal *ḥadīth* on which the case for the death sentence for apostasy is built up is the one narrated by Ibn 'Abbās in the words: "Whosoever changes his religion, slay him." This is the version given by Bukhārī in his *Ṣaḥīḥ*—"Kitāb al-Jihād fī Istitābat al-Murtaddīn". To it is annexed the story of Ḥaḍrat 'Alī burning to death a number of *Zanādiqah* (heretics), and Ibn 'Abbās, on being informed of the incident, is stated to have remarked that he would not have burnt them but merely killed them, for the Prophet had forbidden the burning of human beings. He then recited this *ḥadīth*.

6. Quoted in *Fikr-o-Nazar*, September 1971, p. 195.

## *Punishment of Apostasy in Islam*

The same *ḥadīth* is also traced<sup>7</sup> to Ḥaḍrat 'A'yeshah by al-Ṭabarānī in his *Mu'jam al-Waṣṭ*. According to another narrator, Mu'āwiyah b. Ḥidāh, as recorded in al-Ṭabarānī's *Mu'jam al-Kabīr*, the full *ḥadīth* should read: "Whosoever changes his faith, slay him. Verily Allah does not accept repentance from His servant who has adopted disbelief after having accepted Islam." The latter part of this version apparently contradicts the Qur'anic texts, which we have already noticed, and is unreliable.

Al-Sāmā'ī<sup>8</sup> reproduces this *ḥadīth* from *Sunan al-Nasā'ī* (*Sharḥ al-Suyūṭī*) and observes that many juriconsults have accepted its authority, but there is a good deal of difference between them as to its meaning. Imām Shāfi'ī and Ibn Ḥazm are reported to have expressed the view that the words of the *ḥadīth* being general, it would apply even to a disbeliever who changes his faith. On the contrary, the majority of the juriconsults and Imām Malik held the opinion that it is confined to Muslims who become renegades from Islam. It is pointed out that the logical result of the first view would lead to the absurd proposition that even a disbeliever who adopts Islam ought to be killed for his change of faith. Consequently the *ḥadīth*, according to better opinion, cannot be interpreted in its literal sense and is susceptible of an obvious limitation to Muslims. It is also argued in favour of the second group that, according to another *ḥadīth*, all disbelievers, whatever variety of faiths they may profess, constitute a single community (*Millat al-Wahidah*) and consequently change from one form of

7. Al-Zaila'ī, *Naṣb al-Rāyah li-Aḥādīth al-Hidāyah*, Vol. III, Chapter "Aḥkām al-Murtaddīn".

8. *Aḥkām al-Murtadd*, pp. 36-8, 211-22.

### *Apostasy and the Sunnah*

passing to another would not alter their position *vis-a-vis* Islam and could not be regarded as a change of faith, in the real sense.

None of these sources, however, indicates the circumstances which provided the occasion for this *qauli* (verbal) *ḥadith*. On the face of it, the *ḥadith* is *mujmal*—a summary statement—and calls for further elucidation.

Difference of opinion prevails among Doctors of Law as to whether it applies to a woman apostate or not. Al-Samarā'i<sup>9</sup> mentions that Imām Malik, al-Auzā'i, Imām al-Shāfi'i and al-Laith b. Sa'd accepted this *ḥadith* as sufficient authority for killing a Muslim woman who leaves the fold of Islam, having regard to the general nature of the expressions used therein. However, al-Thauri, Imām Abū Ḥanīfah and his followers, Ibn Shabramah, Ibn 'Alīyyah, 'Aṭā' and al-Ḥasan excluded women from its scope. Their argument was that Ibn 'Abbās, the principal narrator of the *ḥadith*, had himself declared that a female apostate should not be killed,<sup>10</sup> as the Prophet had forbidden the slaying of women in wars. The Shāfi'is, the Ḥanbalis, the Zaidis and the Mālikis place men and women on the same footing, in this respect, but the Ḥanafis and the Imāmiyyah Shi'ahs say that the woman will be imprisoned till she repents. Sarakhsi, among the *Aḥnāf*, apparently took the view that a woman who was possessed of sound judgment and capacity to give orders can also be condemned to death for apostasy, though, normally, she would be immune from that sentence. Al-Samarā'i has dealt with the question at length, in *Aḥkām al-Murtadd*. Other authorities too

9. Ibid.

10. Ibid.

### *Punishment of Apostasy in Islam*

have pointedly referred to this exemption.<sup>11</sup> The Maliki Ibn al-Qudamah, in his *al-Mughni*, says that a *Muhāribah* woman is not to be killed but only imprisoned.<sup>12</sup>

There are other recognised exceptions that still further restrict the scope of this tradition. Dr Muhammad Hamidullah, in his *Muslim Conduct of State*, has summarised the position in these words: "In case an insane person, a delirious, a melancholy, a perplexed man, a minor, one intoxicated or who had declared his faith in Islam under coercion and a person whose faith in Islam has not been known or established, were to become apostate, they would not suffer the supreme penalty. So too, an apostate woman and a hermaphrodite, according to the Hanafi school of Law, would not be condemned to death but imprisoned and even physically tortured. An old man from whom no offspring is expected is also excepted."<sup>13</sup> In support of this statement he refers to Karami, *Bada'i*, VII, 134; Sarakhsi, *Mabsut*, X, 123; Ibn 'Abidin, *Radd al-Muhtar*, III, 246 and 326-71; Abu Yusuf, *Kharaj*, p. 111; Sarakhsi, *Sharh al-Ushul*, Chapter "al-juz' Yalhaqat al-Takdhib." These exemptions also find mention in various chapters of *Akham al-Muradd* by al-Samarā'i. The *Fatḥ al-Bārī* too adverts to two exceptions, viz. of a hypocrite and one forced to the faith.<sup>14</sup>

If then the accepted position be that the *ḥadīth* is not to be taken literally and is subject to several qualifications and the circumstances in which the relevant

11. Al-'Ainī, *Umdat al-Qārī*, Vol. XIII, p. 232; al-'Asqalānī, *Fatḥ al-Bārī*, Vol. II, p. 23, Vol. XIII, pp. 220-8; and *Hidāyah ma' al-Kifāyah*, Vol. II, pp. 299 *et seq.*

12. 3rd edn., Vol. VIII, p. 33.

13. 5th edn., pp. 172 *et seq.*

14. Vol. II, p. 23; Vol. XII, pp. 220-8.

### *Apostasy and the Sunnah*

words were uttered by the Prophet are not precisely known, would it be too much to take the next step and suggest that there is also underlying the *ḥadīth* a tacit assumption that the person concerned must be guilty of *Muḥarabah* (active hostility)? This would have the merit of bringing the purport of the *ḥadīth* into conformity with verse 34 of *Sūrat al-Ma' dah*: "The only reward of those who wage war against Allah and His Messenger and strive to create disorder in the land, is that they may be slain or crucified. . . ."

That this suggestion is not a novel one would be borne out by what several Doctors of Law have already indicated as the basis for the death penalty in their writings. In the *Hidāyah*, Marghinānī, while discussing the question whether it is necessary to allow time for repentance to an apostate or not,<sup>15</sup> says: "And for us there is the word of God, 'Kill the polytheists . . .' without restriction as to time for repentance and so also is the saying of the Prophet (on him be peace): 'Whosoever changes his faith, slay him,' and that is because he is a *Kāfir ḥarbī* (a disbeliever and active rebel) whom the call has reached. He would, therefore, be killed instantly without time being allowed for repentance . . . ." It is clear that Marghinānī's analysis establishes the effective cause of the supreme penalty to be active hostility or rebellion. This opinion is further elaborated and confirmed in the *Mabsūt*,<sup>16</sup> the *Baḥr al-Rā'iq*,<sup>17</sup> the *Fatḥ al-Qadīr* and by the commentaries of Chalpī and Bābartī.<sup>18</sup> It is explained in these books that the exemption in

15. Vol. II, Bāb "Aḥkām al-Murtaddīn," pp. 200 *et seq.*

16. Sarakhsī, *al-Mabsūt*, Vol. X, pp. 98-124.

17. Ibn Nujaim al-Miṣrī, *Baḥr al-Rā'iq*, Vol. V, p. 139.

18. *Fatḥ al-Qadīr*, 'alā *al-Hidāyah* with 'Ināyah of al-Bābartī, and marginal comments of al-Chalpī, Vol. IV, pp. 288-9.



### *Punishment of Apostasy in Islam*

favour of a woman is grounded on the fact that she is incapable of bearing arms, normally. Further, it is said that disbelief intrinsically does not justify condemnation to death and that is the genesis of the rule that the blind and the very old will not be killed. A woman apostate may, however, be slain, if she possesses independent judgment and has a following. Zaila'i in his commentary on the *Kanz al-Daqā'iq*<sup>19</sup> says explicitly: "The reference in the *ḥadīth* is to one who fights against us. . . ." Marghinānī too observes in the *Hidāyah*<sup>20</sup> that the punishments are postponed to the Hereafter, as their acceleration (and implementation in this world) would interfere with the significance of trial and testing (in this life). This view will be reinforced when we consider the various versions of the next tradition to be discussed.

Among other reasons given by him for doubting the authenticity of the *ḥadīth* under discussion, Nawāb A'zam Yār Jang<sup>21</sup> (Maulvi Charāgh 'Alī) mentions that there is a gap between 'Ikramah and Ibn 'Abbās and again between the latter and the Prophet, in the chain of narrators. This may not perhaps appeal to many as a solid ground for rejection of the *ḥadīth* which figures in several well-known compilations. But an alternative approach has been to interpret the word *uqtalūhu* (kill him) occurring in the *ḥadīth*, not literally, but figuratively, and precedents are cited in support of this suggestion. When the Banī Isrā'il had taken to the worship of the calf, according to the well-known narrative in the Qur'an (Sūrat al-Baqarah), Moses advised them "to turn to

19. *Sharḥ al-Zaila'i 'alā Kanz al-Daqā'iq*, Vol. III, p. 285.

20. See note 18.

21. *Proposed Political, Legal and Social Reforms under Muslim Rule-A'zam al-Kalām fi Irtiqā' al-Islām*: Urdu translation by M. 'Abdul Hāqq, pp. 86 et seq.

### *Apostasy and the Sunnah*

their Maker" and added "*faqtulu anfusakum*" which may mean, if taken literally, "kill yourselves," but has been interpreted by some commentators as an admonition to kill their evil passions. Reference may be made in this connection, *inter alia*, to *Baḥr al-Muḥit*.<sup>22</sup> Again, on the Prophet's death on the day of Thaqīfah, when there was a gathering of the Anṣār, at which the chief of the Khazraj named Sa'd set himself up as a candidate for the Caliphate, Ḥaḍrat 'Umar is said to have called out "*Uqtalu as-Sa'd, uqtalahu Allah.*" In this sentence the word *uqtalu* which literally means "kill" has been construed as meaning "treat him as if he is dead and do not advert to what he says," in the *Aqrab al-Mawārid* and the *Nihāyah* of Ibn al-Kaṭhīr. The same authorities assign a similar meaning to the word *uqtalu* occurring in the *ḥadīth*: "If two Caliphs have obtained allegiance (from the people), treat one of them as if he is dead (*uqtalu*), and ignore his claim." One of the meanings assigned to the expression *qatl al-naḥs* in the *Mufradāt* by Imām Rāghib Iṣfahānī is "killing the base passions".

But this line of reasoning may not be apt, if a variant of this *ḥadīth* as given by Imām Mālik in his *Muwattā'* (Chapter headed "*al-Qaḍā' fi man Artadda 'an al-Islām*") is read with it.<sup>23</sup> The wording therein given is: *Man ghayyara dīnahu faqribu unuqahu*—"Whosoever changes his faith, smite his neck." These words are not equivocal and would not leave room for any metaphorical construction. But Imām Mālik adds the comment after giving the *ḥadīth* that if a Muslim adopts another creed but conceals his disbelief and professes Islam out-

22. Ibn Ḥayyān, *Baḥr al-Muḥit*, Vol. I, p. 269.

23. Imām Mālik b. Anas al-Aṣḥabī, *Muwattā'* (Egypt, 1339 H.), Part II, p. 165.

### *Punishment of Apostasy in Islam*

wardly, then, on proof of his guilt, he shall be slain, without opportunity for repentance being conceded to him, on the ground that such people cannot be trusted. The opportunity to repent, according to him, would be valid only in the case of one who openly adopts another faith, after having accepted Islam. This opinion, with all respect for the high status, piety and learning of Imām Mālik, one may venture to suggest, would apparently be inconsistent with the treatment meted out to known hypocrites during the Prophet's time and to the *ḥadīth* according to which the Prophet had chided Usāmah b. Zaid on his admission that he had killed a man of the Juhainah tribe in combat, even after he had recited the *Kalimah* (Declaration of Faith). Usāmah pleaded that the man had done so merely to save his life and the Prophet queried: "Did you dissect his heart and look into it?" The tradition is included in *Ṣaḥīḥ al-Bukhārī*<sup>24</sup> as well as in *Ṣaḥīḥ al-Muslim* and *Mishkāt al-Maṣābiḥ*<sup>25</sup> of Shaikh Walī al-Dīn Muḥammad b. 'Abdullāh Khaṭīb 'Umrī, with slight variations.

The fact that this *ḥadīth* exists in a verbally different version, though carrying the same sense, may perhaps justify the criticism that narrators may have retained what they understood to be the purport of the tradition and may have failed to recollect the exact words and the full circumstances surrounding the origin of the saying. This consideration may be allowed to fortify the attempt at its reconciliation with the Qur'anic text by evocation of its underlying assumption that the person involved

24. *Ṣaḥīḥ al-Bukhārī*, Urdu translation (with Arabic text) by S. Nā'ib Ḥusain Naqwī and M. Muḥammad 'Alī, Vol. III, p. 579.

25. *Mishkāt al-Maṣābiḥ*, Urdu translation (with Arabic text) by S. Nā'ib Ḥusain Naqwī and M. Muḥammad 'Alī, Vol. II, p. 10.

### *Apostasy and the Sunnah*

must have joined those warring against the Muslims. This indeed is the approach of Maulānā Thanā' Ullah to this *ḥadīth* and the *ḥadīth* to be considered next, in *Islām aur Masiḥiyyat*.<sup>26</sup> He observes that Islam as a polity had to fight for its existence and these two traditions pertain to a situation where a Muslim forsakes Islam and the Muslim community and he would then be presumed to have connections with the enemies of Muslims. In other words, he says, he himself assumes the position of an enemy and the rule laid down in these reports amounts to a law of war.

### *Section III*

The next tradition to be considered has several verbal variants and, in some of them, the additional words are very significant. The formulation by 'Abdullah b. Mas'ūd runs in these terms:

(1) The Prophet (on him be blessings and peace of God) said: It is not lawful to shed the blood of a person professing Islam, who testifies that there is no god but Allah and that I am the Messenger of Allah, except in three cases: life for a life, or a married person guilty of adultery or a person who separates from his faith and deserts his community—(Bukhari, "Kitāb al-Diyat," "Bāb al-Nafs bi al-Nafs").<sup>27</sup> A similar version exists in Tirmidhi's *Sunan*.

(2) In the same "Kitāb al-Diyat," "Bāb al-Qasāmah," Bukhārī records another version narrated by Abū Qulābah: "The Messenger did not put to death anyone by way of *Ḥadd* (prescribed punishment) except for one of

26. Pp. 202-4.

27. *Ṣaḥīḥ al-Bukhārī* (Aṣḥaḥ al-Maṭba'ah, Karachi), Vol. II, p. 1016.

### *Punishment of Apostasy in Islam*

three antecedents: a person who commits murder of his own free will shall be killed, (so also) a person who commits fornication after marriage or a person who fights Allah and His Messenger and becomes an apostate from Islām."<sup>28</sup>

(3) A summary version is attributed to Ḥaḍrat 'A'yeshah in *Sunan al-Nasā'i*, in which the relevant words for the third category of persons are "one who commits apostasy, after accepting Islam". A full version is, however, also contained in Nasā'i's *Sunan*, which brings out the element of hostility to the community on the part of the apostate.<sup>29</sup> An alternative detailed version is assigned to Ḥaḍrat 'A'yeshah by Abū Dāwūd ("Kitāb al-Ḥudūd," "Bāb al-Ḥukm fi man Artadda").<sup>30</sup> Therein the third category is defined as comprising of a person "*Muḥariban bi'llāh wa Rasūlahu fa innahu yuqtal au yuslab au yunfa*," i.e. "who fights Allah and His Messenger and he will be killed or crucified or banished from the land"—words reminiscent of verse 35 of *Surat al-Mā'idah*.

(4) Two versions are traced to Ḥaḍrat 'Uthmān, the Fourth Caliph. One says: "I heard the Messenger of God (on him be peace and blessings of God) say: It is not lawful to shed the blood of a Muslim except in one out of three cases: a person who apostatises after accepting Islam or who fornicates after marriage or one who kills a person without retaliation for murder of another (Nasā'i, *Sunan*: "Bāb Dhikr ma yuḥillu bihi dam al-Muslim"). In the second version attributed to Ḥaḍrat 'Uthmān, also in the same Bāb in Nasā'i, the relevant words are: "Or

28. Ibid., p. 1019.

29. *Sunan al-Nasā'i* (Maktabah Salafiyyah, Lahore, 1376 H.), Vol. II, pp. 161, 236.

30. *Sunan Abū Dāwūd* (Maṭba'ah Muṣṭafa Muḥammad, Cairo 1950), Vol. IV, p. 180.

### *Apostasy and the Sunnah*

one who commits apostasy after having believed." It is said that Ḥaḍrat 'Uthmān had proclaimed this tradition to the crowd that had surrounded his house in order to assassinate him.

(5) Somewhat akin to the theme of this *ḥadith* is the one given by Abū Dāwūd on the authority of Jarīr: "When a servant of God runs away to polytheism, shedding of his blood becomes lawful." In the *Zamīndār* of 8 October 1924, M. Sirāj Aḥmad mentions a version included in the *Sunan* of Nasā'i in which the relevant words are: "One who leaves the community and cuts it asunder." There are some lesser compilations of *ḥadith* which mention similar versions, but they need not be noticed.

Al-Sāmārā'i has discussed the tradition traced to Ḥaḍrat 'Uthmān in his *Aḥkām al-Murtadd*.<sup>31</sup> He quotes the opinion of Shaukānī from his *Nail al-Auṭār* (Vol. VII, p. 7), with reference to Ibn Mas'ūd's version of the *ḥadith* that the words "*al-Mafāriq li'l-Jamā'ah*" occurring therein mean "one who separates from the Islamic community," and that, according to him, is only possible with *Kufr* (disbelief) and not merely by committing an offence or resorting to an innovation, etc. He adds further that this forsaking of the community "must be for joining the disbelievers' community". He also gives an extract from Ṣan'ānī's *al-'Āddah 'alā al-Aḥkām al-Aḥkām* endorsing this view. Ṣan'ānī further observes that there is difference of opinion between the Doctors of Law as to whether a woman should be killed for apostasy or not. The view receives some reinforcement from the comment of Ibn Mājah in his *Sunan*, "Bāb al-Murtadd," to the effect that no action is to be accepted from a person who

31. Pp. 40-2.

### *Punishment of Apostasy in Islam*

has become a polytheist after accepting Islam, until he leaves the *Mushrikin* (polytheists) to rejoin the Muslim community.<sup>32</sup>

In view of the variations in different versions of the *ḥadīth* it may be legitimate to infer that some of the narrators merely recollected its general sense without preserving the verbal integrity of the *ḥadīth*. As Imam Shafi'i has remarked in his *al-Risālah*,<sup>33</sup> concerning differences in reports from the Prophet, "Sometimes he (the Prophet) was questioned about something and he used to give a reply in accordance with the question; sometimes the narrator conveyed fully what he had heard and sometimes summarised, so that, on occasions, the full purport was conveyed and, on occasions, this did not happen. Sometimes, a person merely reported that part of the *ḥadīth* which the Prophet had uttered as his reply, because he was himself not present when the question was asked and which occasioned the answer." With such possibilities open, an attempt to read together all these variant versions so as to get the full picture would be a process which would carry us nearer to the truth. It follows that the delinquents contemplated in the *ḥadīth* are those who were not merely renegades from the faith but also in active opposition to the Muslims, having joined the warring disbelievers' camp. Their case would thus fall within the purview of verse 34 of Sūrat al-Mā'idah and their condemnation would be in harmony with the letter as well as the spirit of the Qur'anic text. The present writer finds that this view receives corroboration from the opinion of Maulānā Abu'l-Wafā' Thanā' Ullāh,

32. Ibn Mājah, *Sunan*, "*Bāb al-Murtadd*" (Maṭba'ah Mujtabā'i, Delhi), p. 182.

33. Urdu translation by M. Anjad 'Alī, p. 150.

## *Apostasy and the Sunnah*

as has been mentioned at the end of Section II.

### *Section IV*

Bukhārī in his *Ṣaḥīḥ* has included a tradition from the mouth of Abū Mūsā Ash'arī.<sup>34</sup> It is related therein that the Prophet sent Abū Mūsā Ash'arī to Yemen as his Governor and, soon after, Mu'adh b. Jabal was also deputed to go there. Abū Mūsā welcomed him and invited him to sit down. At that time, a Jew had been brought there, under arrest, who had at first become a Muslim but had later reverted to Judaism. Mu'adh is reported to have declined to sit down unless the apostate Jew was first killed, "in accordance with the judgment of God and His Messenger". His behest was complied with: the Jew was put to death.

Here again we are in the realm of conjecture as to the actual circumstances surrounding apostasy. It is just probable that the Jew had joined the rebel group of Aswad 'Anṣī in Yemen and that he was not punished for defection from the faith alone. Aswad 'Anṣī had set up claim to prophethood and had become an apostate in the Prophet's lifetime. The Christians of Najrān had joined him and they had ousted the Prophet's two appointees to the area, 'Umar b. Ḥazm and Khālīd b. Sa'id b. al-'Aṣ. Aswad had himself occupied Ṣan'a'.<sup>35</sup> This suggestion gains some strength from the consideration that Mu'adh had cited the authority of Allah and His Mesen-

34. *Ṣaḥīḥ al-Bukhārī*, Bāb "Ḥukm al-Murtadd wa'l-Murtaddāt wa Istita-bathum" (Aṣḥaḥ al-Maṭba'ah, Karachi), Vol. II, p. 1023.

35. Dr. M. Ḥamīdullah, *Siyāsi Wathīqah-jāl* (Urdu translation by M. Yahyā Imām Khān Nowsbehrwī, pp. 188-9) (with reference to Ṭabarī's "History"); *Dā'irah-i-Ma'ārif-i-Islāmiyah* (Urdu), Punjab University, Lahore, 1971. Vol. II, p. 768.



### *Punishment of Apostasy in Islam*

ger both, in support of his demand for the extreme penalty to be inflicted on the Jew. In the Qur'an, as we have seen, there is no mention of any such punishment for an apostate, but death is to be the portion of a *muhārib Allāh* (one who fights God, i.e. the Muslim community). In the absence of the exact words of the Qur'an or of the Prophet that Mu'adh had in mind, the position remains equivocal and in any event this would be a very weak precedent. If it was a decision based on the personal *Ijtihād* (opinion arrived at after considering analogous provisions of the Qur'an or the *Sunnah* of Mu'adh b. Jabal, it would not be of binding value. Shah Wali Ullah in his *Hujjat Allāh al-Bālighah*,<sup>36</sup> cites the opinion of 'Abdullah b. 'Abbās, 'Aṭā', Mujāhid and Imām Mālik to the effect that, however eminent a personality may be, if certain statements of his are accepted, there may be some other statements attributed to him, which it would be necessary to reject. For there is no man except the Prophet whose every saying would be capable of citation as a conclusive argument. Earlier<sup>37</sup> he expresses the categorical view that the basis of some statements ascribed to *Ṣaḥābah* (Companions of the Prophet) is merely "forgetfulness or error". In the *Mukhtaṣar* of Sayyid al-Sharīf al-Jurjānī it is said: "Whatever is related from a *Ṣaḥābi*, either in the form of a saying or in the shape of action, whether narrated by a continuous chain of narrators or not, is not a binding instance."<sup>38</sup> In the *Qamar al-Aqmar Sharḥ Nūr al-Anwār*<sup>39</sup> it is laid down on the authority of Maulānā 'Abdal-'Alī Baḥr al-'Ulūm, that

36. Urdu translation by M. 'Abdur Raḥīm, Vol. I, p. 677.

37. Ibid., p. 655.

38-39. As quoted by M. Sher 'Alī, in his *Qatl-i-Murtadd aur Islām* pp. 142-3.

## *Apostasy and the Sunnah*

the mere possibility that a *Ṣaḥābi* (Companion) might have based himself on what he might have heard from the Prophet does not make it obligatory to follow his opinion. There is also the well-known observation of Imām Shāfi'i regarding the *Ṣaḥābah*: "They were men and so are we."<sup>40</sup> It is interesting to recall that Maulānā Charāgh 'Alī (Nawāb A'zam Yār Jang) criticises the decision of Mu'adh as one in conflict with the Qur'anic text.<sup>41</sup>

What happened exactly on the occasion to which the report relates is also open to some doubt. 'Aini in his *'Umdat al-Qārī* gives varying versions as to whether the Jew was simply put to death or also burnt.<sup>42</sup>

### *Section V*

There are two traditions concerning a woman who is said to have been killed for apostasy, by order of the Prophet. One is traced to Ḥaḍrat 'A'yeshah which places the incident on the day of Uhūd and the other to Jābir b. 'Abdullah, by Dāraqutnī and Baihaqī. In the chain of narrators pertaining to the tradition from Ḥaḍrat 'A'yeshah, there occurs the name of Muḥammad b. 'Abdul-Malik, as the ultimate transmitter. In respect of him, al-Zaila'i, the author of *Naṣb al-Rayah li Aḥādith al-Hidāyah* comments that Aḥmad and others had described him as a fabricator of traditions.<sup>43</sup> The same learned writer criticises Jābir b. 'Abdullah's tradition in the words:<sup>44</sup> And

40. Ibid.

41. Nawāb A'zam Yār Jang (M. Charāgh 'Alī), *Proposed Political, Legal and Social Reforms under Muslim Rule*, Urdu translation: *A'zam al-Īlām fi Irtiqā' al-Islām*, by M. 'Abdul Ḥaqq, pp. 86 *et seq.*

42. Vol. XI & XII, p. 235.

43. See Part III, Bāb "Aḥkām al-Murtaddīn".

44. Ibid.

### *Punishment of Apostasy in Islam*

'Abdullah b. Uzniyyah's testimony (he was one of the chain of narrators) has been invalidated by Ibn Ḥabbān. He says: It is not permissible to base an argument on him in this situation, and in *al-Mu'talif wa'l-Mukhtalif*, Dāraqutnī has characterised him as "one rejected". Ibn 'Adī has related this *ḥadīth* in his *al-Kāmil* and commented: "'Abdullah b. 'Aṭārid b. Uzniyyah is not acknowledged in respect of *Ḥadīth* and I have not seen our predecessors say anything against this." Both these traditions, therefore, are of doubtful authenticity. In any event, they are vague and indefinite formulations, furnishing no details of the woman involved. It is pertinent to advert to the fact that al-Zaila'ī<sup>45</sup> has also cited two other *aḥādīth*, in one of which the words ascribed to the Prophet are: "Do not kill the woman, if she commits apostasy." This too has been included in Dāraqutnī's compilation of Traditions. However, the compiler describes the principal narrator, 'Abdullah b. 'Isā al-Jazrī, as a liar. The other *ḥadīth* is from *al-Kāmil* of Ibn 'Adī, traced from Abū Hurairah, and says that a woman who became an apostate was not killed by the Prophet. This is also attacked as of weak authority. Apparently on this point, conflicting but weak traditions are not scarce.

There is one other tradition having a bearing on this subject, in which the woman has been named as Umm Marwān. She was said to have been put to death under orders of the Prophet. It is included in Dāraqutnī's "Collection," being traced to Jābir. The last transmitter in the chain of narrators is Ma'mar b. Bakkar who is said to be of imaginative type by 'Uqaili, according to the author of *Naṣb al-Rāyah*.<sup>46</sup> But even if this tradition is

45. Ibid.

46. Ibid.

### *Apostasy and the Sunnah*

accepted as authentic, there is evidence available which differentiates the case from that of a mere apostate. She was actively hostile to the Muslims. Sarakhsī, in his *Mabsut*,<sup>47</sup> informs us that she partook in actual fighting against Muslims and exhorted others to join the warring group and that she had a following. It was, therefore, for her conduct as a *Muḥāribah* (an active oppositionist) that she was put to death, rather than for her change of faith. Some authorities from the school of thought which exempts female apostates from being killed have already been noticed earlier and they would serve to strengthen the inference open on the above discussion that there is no clear warrant for holding that the Prophet had ordered the killing of a woman for apostasy simpliciter. Instances of the Prophet forbidding slaughter of women even in battle would be found summarised in al-Sāmārā'ī's *Aḥkām al-Murtadd*, where the prohibition is stated to be grounded on lack of capacity of females for fighting.<sup>48</sup>

### *Section VI*

The instance of 'Abdullah b. Abī Sarḥ is also mentioned by one Pakistani scholar<sup>49</sup> as lending support to his thesis that the punishment of apostasy is death. The instance, when considered in all its bearings, seems to negative that proposition. Two versions are extracted from the *Sunan* of Abū Dāwūd, "Kitāb-al-Hudūd," Bāb "al-ijlūkm fī man Artadda". In the first version it is said that this man took shelter with Ḥaḍrat 'Uthmān, on whose intercession the Prophet pardoned him. According

47. Vol. X, pp. 108-10.

48. Pp. 219-20.

49. M. Abu'l-A'lā Maudūdī, *Murtadd Kī Sazā Islāmī Qānūn Men*, pp. 16-8.

### *Punishment of Apostasy in Islam*

to the second version, Ḥaḍrat 'Uthmān requested the Prophet three times, repeatedly, to accept his allegiance and the Prophet apparently reluctantly acceded to the request, for he later turned to his Companions and said: "Was there no rightly-guided person among you who could have risen to kill this man, seeing that I was withholding my hand from his allegiance?" The Companions are reported to have said that they could not know what was in the mind of the Prophet unless he had himself given them an indication by a wink of his eye. The Prophet told them that it was not becoming a Prophet to have made such a stealthy sign with his eye.

The facts of the case are given by Ṭabarī<sup>50</sup> and Ibn al-Athīr<sup>51</sup> in their Histories and they are also mentioned by Rāzī<sup>52</sup> in his *Tafsir al-Kabir* and by Muḥammad Ḥasnain Haikal in his "Life of the Prophet".<sup>53</sup> After accepting Islam, he used to act as one of the scribes for taking down the Qur'ānic verses revealed to the Prophet from time to time. He became a renegade and joined the polytheist Quraish before whom he boasted that he used to write what was dictated to him by the Prophet as and where he liked. He was one of those under sentence of death by order of the Prophet, at the time of the Conquest of Mecca. 'Abdullah was a foster-brother of Ḥaḍrat 'Uthmān and that is why he gave him shelter and interceded successfully on his behalf with the Prophet. He was under the sentence apparently for his political crime in making common cause with the enemies of the Muslims and not

50. Urdu translation by S. Muḥammad Ibrāhīm Nadvī, Vol. I. pp. 400 *et seq.*

51. Urdu translation by M. Maqṣūd 'Alī Khairūbādī, Vol. II, pp. 407 *et seq.*

52. Vol. V, p. 527.

53. *Ḥayāt-i-Muḥammad* (Urdu translation : *Sirat al-Rasūl* by Muḥammad Wārith Kūmil), p. 526.

### *Apostasy and the Sunnah*

for mere apostasy. For if he was liable to *ḥadd-i-Shara'i* for that offence, it is unlikely that Ḥaḍrat 'Uthmān should have given him protection. The fact that he received such protection strongly suggests that his proclaimed punishment was not with reference to his apostasy but to his association with and encouragement of polytheist belligerents.

There were actually ten or twelve persons in all who were under the sentence of death, if captured, for their oppositionist role, at that time. They were, besides Ibn Abī Sarḥ, 'Abdullah b. Khaṭal, 'Ikrimah b. Abī Jahl, Ḥuwairith b. Naqīd, Muqais b. Ṣabābah, Hibār b. al-Aswad, Ka'b b. Zuhair, Hindah bint 'Utbah (wife of Abū Sufyān, who had mutilated the dead body of the Prophet's uncle Ḥamzah, in the Battle of Uḥud), Waḥshi b. Harab, Ṣafwān b. Umayyah and 'Abdullah b. Zab'arī Sahmī. They were all persons who had either persecuted the Muslims or fought against them. Waḥshi had killed Ḥamzah by hurling his weapon at him from a distance. Ibn Khaṭal had become a Muslim but had run away after killing a *Ṣaḥābī* or, according to one version, a Muslim slave. He used to revile the Prophet in verses that were sung by his two slave-girls—these girls, according to Ibn Athīr, were among those under sentence of death, *in absentia*. Ka'b and Ḥuwairith were also charged with similar abusive and vilifying roles. Hibār had attacked the camel carrying Ḥaḍrat Zainab, daughter of the Prophet, in collaboration with Ḥuwairith, and the latter also attacked the camel on which two other daughters of the Prophet, Ḥaḍrat Faṭimah and Ḥaḍrat Umm Kulthūm, were travelling and, in both cases, the riders had fallen off their mounts and received injuries. Muqais b. Ṣabābah had become a renegade, but he was not

### *Punishment of Apostasy in Islam*

immediately interfered with. He was killed during the Conquest of Mecca by Ghilāh b. 'Abdullah Kalbī. Muqais had earlier killed an Anṣārī Muslim who had killed a brother of Muqais, under a misapprehension—*khaṭā'an*—and he then had run away and defected from the Muslim community.<sup>54</sup> Zarqānī in his *Sharḥ Mawāhib al-Ladunniyyah* has also given their histories.<sup>55</sup> Some details about these persons are also furnished by Ibn Hishām in his *Sirat*.<sup>56</sup> However, only four of these persons were eventually killed, the rest receiving pardon from the Prophet, including Waḥshī, the killer of Ḥamzah. Their offences lay in the political rather than the religious field. It cannot be maintained, in consequence, that the case of Ibn Abī Sarḥ is, in any sense, an apt illustration of the liability of an apostate to the supreme penalty.

The attempt by some writers to draw strength for their contention that death is the prescribed punishment for apostasy, from the incident relating to 'Ukl or 'Urainah people, must also founder on the rock of differentiating facts. The relevant *ḥadīth* is set out in *Ṣaḥīḥ Bukhārī*<sup>57</sup> and *Ṣaḥīḥ Muslim*.<sup>58</sup> It is traced from Anas. The circumstances in which these persons from 'Ukl were killed have already been referred to, while commenting on verse 35 of Sūrat al-Mā'idah, and they are detailed in several commentaries of the Qur'an, e.g. Ālūsī's *Ruḥ al-Ma'ānī*, Suyūṭī's *Lubab al-Nuqul fī Asbāb al-Nuzul*, Rāzī's *Tafsīr al-Kabīr* and others. They were guilty of brutal murder combined with robbery, and

54. Zarqānī, *Mawāhib al-Ladunniyyah*, Vol. II, p. 321.

55. Ibid.

56. Vol. II, pp. 69-78.

57. Urdu translation (with Arabic text) by S. Nā'ib Naqwī and Muḥammad 'Alī. Vol. III, p. 587.

58. Part I, Vol. II, Bāb *Ḥukm al-Muhārībīn wa'l-Murtaddīn*, p. 93.

### *Apostasy and the Sunnah*

they were dealt with on that basis and not for apostasy alone.

Another reported *ḥadīth* ascribes instructions issued by the Prophet to Mu'adh b. Jabal when he was leaving for Yemen that both male and female apostates were to be killed unless they repented. In his marginal comment on this *ḥadīth*, M. Muḥammad Ḥasan Sunbalī,<sup>59</sup> in his edition of the *Hidāyah*, has criticised this *ḥadīth* as resting on weak authority as its narrators are questionable.

It is claimed that a woman who was abusing the Prophet was killed by a *Ṣaḥābī* and the Prophet remitted her *Qisās* (punishment for murder). The tradition is included in the *Sunan* of Abū Dāwūd and is said to have been narrated by 'Ikrimah and Sha'bī. Doubt has been cast on its authenticity by criticism of Nasā'ī, among others, of 'Uthmān al-Shaham, one of the narrators, as a weak link. Sha'bī's version is also not accepted as authentic as, according to Ḥakīm, he had not heard a single tradition from Ḥaḍrat 'Alī whom he had claimed as the source of information for this *ḥadīth*. Apart from this aspect of the matter, however, the death of the woman was caused under circumstances of grave provocation offered by her to Muslims, and if the Prophet, as Head of the State, remitted the punishment, the instance cannot be put forward to buttress the contention that apostasy had to be punished with death. In this connection, it would be pertinent to refer to another *ḥadīth* included in *Ṣaḥīḥ Bukhārī*. It is reported that a Jew, while passing by the Prophet, had said: "*As-sām-u-'alaikum*" (death on you). The Prophet merely retorted back: "*Wa 'alaik*" (and on you). When the people around asked for permission of the Prophet to kill him, he forbade

59. Quoted in M. Sher 'Alī, *op cit.*, p. 172.



## *Punishment of Apostasy in Islam*

them from doing so.<sup>60</sup> So apparently such kind of provocative conduct was also to be ignored.

### *Section VII*

As we have seen, none of the *ahādith*, normally relied on by the protagonists of the penalty, unequivocally support that judgment. That they should not be so construed is a suggestion that has much to commend itself in view of what follows.

A *ḥadīth* is related from Jābir b. 'Abdullah in *Ṣaḥīḥ al-Bukhārī*,<sup>61</sup> by three different chains of narrators, to the effect that a Bedouin Arab accepted Islam and took the oath of fealty on the Prophet's hand. Soon after, he contracted high fever and came back to the Prophet to demand cancellation of his allegiance. He repeated this demand three times, but each time it was refused. He then went away—apparently unmolested. The Prophet merely remarked that Medina is like a furnace which separates the dross from what is pure. If apostasy had to be visited with the death sentence, he should not have been allowed to depart with immunity. There is also discussion of this *ḥadīth* in the *Fath al-Bārī*.<sup>62</sup>

Interesting light is thrown on the question we are considering by clauses (4) and (5) of the Hudaibiyyah Peace Pact, concluded between the Muslims acting through the Prophet and the polytheist Quraish of Mecca through their plenipotentiary, Suhail b. 'Umar. These clauses are reproduced below:<sup>63</sup>

60. Urdu translation (with Arabic text) by S. Na'ib Naqwi and Muḥammad 'Alī, Vol. III, p. 598.

61. Ibid., Vol. III, pp. 689-91.

62. Ibn Hajar al-'Asqalānī, *Fath al-Bārī*, Vol. XIII, p. 173.

63. Dr M. Ḥamīdullah, op. cit., Urdu translation by M. Abū Yahyā Imām Khān Nowshehrawī, p. 53.

### *Apostasy and the Sunnah*

(4) If a Meccan becomes a Muslim, without the permission of his family chief and migrates to Medina, it will be obligatory for Muḥammad to return him to Mecca.

(5) In the reverse case, if someone from Medina defects from Islam and seeks protection in Mecca the Quraish would not return him.

If the apostate Muslim was liable to the death sentence, it is extremely unlikely that such a provision should have been agreed to, in derogation of a Commandment of the *Shari'ah*.

Again, in the document of *Amān* (protection) granted to the Ḥadad branch of the Lakhm tribe by the Prophet<sup>64</sup> and scribed by 'Abdullah b. Zaid, it is provided that in respect of members of the tribe who accept Islam, keep up prayer, pay the Zakāt and the Prophet's share and give up friendly relations with the polytheists, the responsibility to protect their lives, their property and their honour will rest on Allah and His Messenger (i.e. on the Muslims). "But if any one of them, after becoming a Muslim, commits apostasy, then the responsibility of Allah and His Messenger will cease with regard to him, and a person who authenticates his Islam by his actions will have his faith certified by the Prophet." Nothing was said to indicate that apostasy would invite the capital sentence—only he would lose his protective cover.

It is also possible to gain some guidance on the point in question from the dialogue that took place between Abū Sufyān (who was then a non-Muslim) and the Caesar of Byzantium, whom the Arabs give the name of "Herqal" (Heracles). Abū Sufyān was accompanied by his Quraish

64. Ibid. pp. 65-6.

### *Punishment of Apostasy in Islam*

companions and one of the questions put by the King to Abū Sufyān was whether any of the followers of the Prophet was known to have become a renegade from his faith. The answer was in the negative. Here was an occasion for Abū Sufyān to have assigned this steadfastness to the threat of the extreme penalty for apostasy if such had been the case—he was no friendly emissary who could suppress such a fact. The absence of such a charge is significant.<sup>65</sup>

When "Qiblah" for prayers was changed, by Divine Command, from Bait al-Muqaddas to the Ka'bah at Mecca, the decision came as a shock to the Jews and even to some Muslims. The incident is referred to in the opening verses of Part II of the Qur'ān and it is explained in verse 144 of Sūrat al-Baqarah that the change was effected so that Allah "might know him who follows the Messenger from him who turns upon his heels". Ibn Jarir Ṭabarī in his commentary *Jāmi' al-Bayān* mentions that some of the Muslims had actually defected from Islam on this occasion.<sup>66</sup> He quotes the comment of Ibn Juraij that these apostates said: "Once it is here and another time it is here"—objecting to the change of "Qiblah". There is no indication given, however, that these apostates were punished for their defection, nor do the relevant Qur'ānic verses point to any such dispensation.

There is apparently some difference of opinion between scholars as to whether *Isrā'* (which is mentioned in Sūrah Bani Isrā'il) and *Mi'rāj* (to which reference exists in Sūrat al-Najm) are two separate phenomena or they both represent one single experience of the Prophet. *Isrā'*

65. Ibn al-Athīr, *al-Kāmil*, Urdu translation by Maqṣūd 'Alī Khairābādī, p. 344.

66. Vol. II, p. 8.

### *Apostasy and the Sunnah*

means the night-journey which the Prophet is said to have performed from Mecca to Jerusalem and back in one night and *Mir'aj* is the ascension to the Heavens and the experiences related to it. Both Ibn Hishām<sup>67</sup> and Ibn Athīr<sup>68</sup> have given the Prophet's account of his experiences in this regard and some of the people who heard of this claim made by the Prophet turned apostates. Ibn Hishām has cited the opinion of Ḥasan in this context that the Qur'anic verse: "And We appointed the vision which We showed thee as an ordeal for mankind and (likewise) the Accursed Tree in the Qur'an" (Banī Isrā'il, verse 61), was revealed in respect of those who became apostates on this occasion. None of the historians, however, has mentioned any attempt being made to bring the offenders to book by any pressure or punishment. Al-Samarā'i has also referred to this incident in his *Aḥkām al-Murtadd*<sup>69</sup> in an extract from the *Musnad* of Aḥmad who mentions that these apostates were killed along with Abū Jahl (in the Battle of Badr) but evidently not sentenced to death after adjudication.

The treatment of hypocrites by the Prophet, in spite of their identity being known, has already received attention earlier during the discussion on the position of apostates under the Qur'an. A signal instance in this connection is that of Jalās b. Suwaid b. Šamit. As related by Ibn Hishām, he had lagged behind when the Prophet had proceeded with his Companions for the Expedition to Tabūk. Not only that but he gave out that "if this person (meaning the Prophet) had been right, we should

67. *Sirat*, Urdu translation by Quṭb-ud-Dīn Aḥmad Maḥmūdī, Vol. II, pp. 7 *et seq.*

68. *Al-Kāmil*, Urdu translation by Maqṣūd 'Alī Khairābādī, Vol. II, pp. 64-72.

69. P. 35.

### *Punishment of Apostasy in Islam*

have been worse than asses." This was conveyed to the Prophet, but Jalās, when questioned, swore falsely that he had said nothing.<sup>70</sup> On this the *āyah* was revealed: "They swear by Allah that they said nothing (wrong), yet they did say the word of disbelief, and did disbelieve after their surrender (to Allah). And they purposed that which they could not attain, and they sought revenge only that Allah by His Messenger should enrich them of His bounty. If they repent, it will be better for them, and if they turn away, Allah will afflict them with a painful doom in this world and the Hereafter, and they have no protecting friend or helper in the earth" (al-Taubah, verse 75). He, too, in spite of his proclaimed disbelief in the word of God, was apparently not killed for his apostasy. Indeed Ibn Ishāq is reported to have said that he, later on, repented and became a good Muslim.

Shah Wali Ullah in his *Hujjat Allah al-Balighah*<sup>71</sup> has referred to the strange case of a person who became a *Murtadd* in the Prophet's time. He died and, when buried, the earth "did not accept him but threw out his dead body". Probably he had in mind a *ḥadīth* included in Bukhārī's *al-Ṣaḥīḥ* and traced to Anas.<sup>72</sup> It is related therein that a Christian became a Muslim, learnt the Sūrahs al-Baqarah and Āl-i-'Imrān from the Prophet and became one of the scribes of the revelations. He later reverted to his original faith and bragged that the Prophet knew only as much as he had written out for him. Sometime after, he died (evidently a natural death) and was buried. His dead body was seen to have been

70. *Sirat*, Urdu translation, op. cit., pp 203-5.

71. Urdu translation, op. cit., Vol. II, p. 822.

72. Ra'is Aḥmad Ja'fī, *Talkhīṣ al-Bukhārī* (Arabic-Urdu), p. 359.

### *Apostasy and the Sunnah*

cast out of his grave the day after his burial. This time he was buried even deeper into the ground but the same strange phenomenon occurred again. The deceased's relatives suspected that the Prophet's followers had a hand in this mysterious incident. He was again buried and this time at a much greater depth under ground. Lo! and behold! his body was found thrown out again and people were now convinced that this was not due to human action. The point of this *ḥadīth* is that the man was not put to death for his apostasy which was even accompanied by grave provocation to the Muslims.

In the sixth year of the Hijrah, according to Ibn Athir, Muja'ah b. Murarah who had come as a member of a delegation from Hawzah b. 'Ali, King of Yamamah, became a Muslim. He, however, went back, defected from the faith and even brought up a false accusation against the Prophet that the latter had taken Musailimah Kadhhab as his partner. There is, however, no mention of any attempt being made to punish him.<sup>73</sup>

Professor Heffening, in his article on "Murtadd" in the *Encyclopaedia of Islam* (1932 Edition), says there are traditions according to which even the Prophet forgave apostates, and he cites Nasā'ī ("Taḥrīm al-Dam," Bāb 14, 15), Abū Dāwūd ("Ḥudūd," Bāb 1), Ibn Ḥanbal (Vol. I, p. 247) and *Taʾsīr Ṭʿabari* (Vol. III, p. 223), in support of this view. This remark and the other positive instances of absence of action against apostates, adduced above, negative the contention of those who urge that the Prophet had determined the punishment for apostasy to be death, as a part of the religious dispensation, *stricto sensu*.

It has been seen that even the strongest bulwark of

73. Ibn Athīr, *al-Kāmil*, Urdu translation, op. cit., Vol. II, p. 350.

### *Punishment of Apostasy in Islam*

the orthodox view, viz. the *Sunnah*, when subjected to critical examination in the light of history, does not fortify the stand of those who seek to establish that a Muslim who commits apostasy must be condemned to death for his change of belief alone. In instances in which apparently such a punishment was inflicted, other factors have been found to co-exist, which would have justified action in the interest of collective security. As against them, some positive instances of tolerance of defections from the Faith, with impunity for the renegades, suggest that the Prophet acted strictly in conformity with the letter and the spirit of the Qur'an, and mere change of faith, if peaceful, cannot be visited with any punishment. The sayings of the Prophet, on which the whole edifice of orthodox reasoning is raised, in the absence of a knowledge of the surrounding circumstances, must be construed in a sense which would make them consistent with the Book of God, for it is unimaginable that the Prophet could have gone against any Qur'anic text. There is no doubt a section of '*Ulamā*' who make the *Sunnah* the final arbiter in every case of seeming or real conflict with the Qur'an—their claim is: "*Al-Sunnah ḡāḡiyah 'ala'l-Kitāb*"—The *Sunnah* is the judge over the Book. This is not accepted by some of the best minds among the Muslim scholars, past or present, and such a doctrine would indeed strike an unconscionable blow at the integrity and pristine purity of the Qur'an.

### Chapter III

## APOSTASY AND THE "KHILAFAT AL-RASHIDAH"

### Section I

It is asserted that a woman named 'Umm Furqah was ordered to be killed by Ḥaḍrat Abū Bakr (the First Caliph) for apostasy. But this is based on a misconception. She was not merely an apostate but a rebel who exhorted her thirty sons to war with the Muslims.<sup>1</sup> She would be, therefore, legitimately classed as a *Muḥāribah* herself.

Much is made by those who favour the death sentence for apostasy, of the wars of Ḥaḍrat Abū Bakr with the *Murtaddīn*. Rāzī in his *Tafsīr al-Kabīr*<sup>2</sup> has given a list of eleven tribes that had defected from Islam, three of them having done so in the Prophet's own time and eight in that of Ḥaḍrat Abū Bakr's. The first tribe to commit apostasy was the Banū Madlaj whose chief was Aswad 'Ansī, in Yemen. As has been mentioned already, he had rebelled against the State and ejected the Prophet's *ʿĀmilīn* (officials) from several cities. The Prophet had written to his Governor in Yemen, Mu'adh b. Jabal, and the other chiefs of Yemen to counter his movement and Aswad was killed. Banū Hanīfah was the tribe of Musailimah Kadhhdhāb who had the effrontery to write to the Prophet to ask for half

1. Al-Sāmarā'ī, *Aḥkām al-Murtadd*, p. 220; Sarakhsī, *al-Mabsūṭ*, Vol. X, p. 110.

2. Vol. III, p. 415.



### *Punishment of Apostasy in Islam*

the land of Arabia for himself. When rebuffed, he rose in revolt, set himself up as a prophet and made common cause with another pretender, a woman named Sajāḥ. He had ousted Thumāmah b. Athāl, the appointee of the Prophet, from governorship and assumed rulership of Hijāz and al-Yamāmah. He killed Ḥalīb b. Zain, a *Ṣaḥābī*, who had refused to accept his claim as prophet, mutilated his body and then burnt it. Action had already started against him in the Prophet's lifetime, but his movement was liquidated in the time of Ḥaḍrat Abū Bakr at the Battle of Yamāmah. The third tribe that became apostate in the Prophet's lifetime was the Banū Asad, Ṭulaiḥah b. Khawailid Asadī being their chief. He too raised an army and tortured the Muslims he captured to death. He was defeated by Khālīd b. Walīd, during Ḥaḍrat Abū Bakr's regime. He ran away to Syria and later turned a Muslim. Laqīṭ b. Mālīk Azdī also became an apostate and arrogated to himself the status of a prophet. He too rebelled and usurped the rulership of 'Umān. Military action was eminently justified against all these persons.

Ṭabarī has given a full account of all these rebel tribes who had refused to pay Zakāt and defied the State officials. Apparently Ḥaḍrat 'Umar had his doubts about the legitimacy of the war against those tribes whose members still recited the declaration of faith though they had declined to pay Zakāt. Abū Bakr reassured him by declaring that he would fight those who differentiated between prayer and Zakāt, for the latter was *Ḥaqq al-Māl* (due on property, to be exacted by the State).<sup>3</sup> Ḥaḍrat

3. *Ṣaḥīḥ al-Bukhārī*: Urdu translation (with Arabic text) by S. Naṣīb Naqwī and M. Muḥammad 'Alī, Vol. III, p. 597.

### *Apostasy and the 'Khilāfat al-Rāshidah'*

'Umar agreed with Ḥaḍrat Abū Bakr. Zakāt was collected as a State impost during the Prophet's time as well as during the Khilāfat al-Rāshidah. The Qur'an directs the Prophet to "take alms out of their wealth (of those who repented of their sins) so that thou mayest cleanse them and purify them thereby" (al-Taubah, verse 103). There is also a *ḥadīth* in Bukhārī which describes Zakāt as wealth "which is taken from the rich and returned to the poor". Maulānā Muḥammad 'Alī' in *The Religion of Islam* says about Zakāt: "It is a State institution or, where there is no Muslim State, a national institution."<sup>4</sup> Actually this was not a simple case of defiance of one particular Commandment of God—the conduct of the tribes amounted to rebellion and they resorted to actual armed attacks on Muslims, as Ṭabarī clarifies.<sup>5</sup> The initiative in the fighting was taken by the tribes of 'Abas and Ḍubyan and Ḥaḍrat Abū Bakr had to fight them before Usamah had returned from the campaign to which he had been assigned. Then other tribes followed suit and gathered in force at Dhi al-Qiṣṣah. Khārjiah b. Ḥaṣīn had advanced on the Muslims to take them by surprise. After Ḥaḍrat Abū Bakr had refused the demand for exemption from Zakāt, made by some tribes, they had actually invaded Medina. Ḥaḍrat Abū Bakr had himself warned the Muslims of the impending attack in these words: "The land (i.e. people) has become apostate and their delegations have seen that you are small in number. You do not know whether you might be attacked by night or by day. . . ." They actually attacked Medina three days later, leaving a group of

4. P. 467.

5. *Tā'rikh* (E.J. Brill edn.), Vol. IV, pp. 1872-7 *et seq.*, 1900 and 1960.

### *Punishment of Apostasy in Islam*

fighters in Dhī Hussī. They had killed the staunch Muslims who were still living among them, earlier. In the 'Umdat al-Qārī it is also stated by 'Ainī: "And al-Şiddīq [Abū Bakr] fought those who refused to pay Zakāt because they had taken up the sword and started a war against the *Ummah*."'<sup>6</sup> Ṭabarī further elucidates<sup>7</sup> that Khālīd b. Walīd refused to pardon the recalcitrant *Murtaddīn* unless they had first surrendered those of their number who had burnt to death Muslims or mutilated their bodies. The tribe of Banū Rabī'ah had set up a new king in the person of al-Mundhar b. al-Nu'mān, known as al-Maghrūr, in Hīrah.

Professors Wellhausen and Caetani have expressed the opinion that these were purely political rebellions having not much connection with religion. Their article on "Şiddīq-i-Akbar" in the latest edition of the *Encyclopaedia of Islam* may be referred to in this context. In the face of the facts detailed above, the plea of those who maintain that these people were merely guilty of non-compliance with a tenet of Islam cannot be sustained.

Maulānā Sa'id Aḥmad Akbarābādī, in his book *Şiddīq-i-Akbar*, has approached this subject from another angle.<sup>8</sup> He thinks that tribes who refused to pay the Zakāt did so under the influence of their tribalism ('*Aşabiyyah*) as they apprehended that after the Prophet's demise they would be relegated to the inferior position of the tributaries of the Islamic State. In reality, according to the learned author, they were not *Murtaddīn* (apostates) in the strict sense and that is why Ḥaḍrat

6. Vols. XI and XII, p. 236

7. *Tā'rikh*, Vol. IV.

8. Pp. 149, 161.

## *Apostasy and the "Khilāfat al-Rāshidah"*

‘Umar and some other Companions gave expression to their duties about the propriety of making war on them. There were others, however, he says, like the followers of Ṭalḥah (or Ṭulayḥah) and Musailimah who had never been genuine Muslims but had accepted, for a time, the hegemony of the Islamic State. He expresses his conclusion in these words: "In the first place, this was not a case of *Irtidād* (apostasy) and, if it was, then it was more of a political than a religious defection. That is to say, these people, as a matter of expediency, had agreed to give political allegiance to the Prophet, remaining hypocrites at heart. Subsequently they busied themselves in intrigues and when the conditions were favourable, they openly raised the banner of revolt."

Ṭabrari<sup>9</sup> mentions in his "History" that Ḥadrat Abū Bakr had pardoned ‘Ainīyyah b. Ḥiṣn and Qurrah b. Ḥabīrah who had been captured by the Muslims, although ‘Ainīyyah had declared that he had till then not believed in God and Qurrah had also secretly become an apostate, though he adopted hypocrisy in this regard. The treatment of these two persons indicates the absence of any settled rule for the punishment of apostates.

This historical perspective thus yields no indication that the first Caliph had acted on the principle that a change of faith, even though peaceful, would require to be suppressed by force. His wars were waged against active rebels.

## *Section II*

The *Kanz al-‘Ummāl*<sup>10</sup> includes a report (relied upon by some scholars) to the following effect: ‘Amr b. al-‘Āṣ,

9. *Tā’rikh* = Urdu translation by S. Ibrāhīm Nadwī, Part III, p. 78.

10. Shaikh ‘Alī Muttaqī, *Kanz al-‘Ummāl* = Urdu translation by S. Farīd ud-Dīn alias Achcho Mian, p. 508.

### *Punishment of Apostasy in Islam*

the Governor of Egypt, wrote to Ḥaḍrat 'Umar, the Second Caliph, that a person had accepted Islam but had reverted to dis-belief. He again came back to the Islamic fold but became a renegade a second time. He had been oscillating between the two faiths a number of times and now finally wanted to rejoin the Muslim community. The Governor asked for advice as to what should be done in such a case. Ḥaḍrat 'Umar is said to have replied that his Islam "should be accepted as long as Allah accepts it"—so long as he goes on repenting, his profession should be accepted as valid. It was added by the Caliph in his reply that if, after presentation of Islam, he declines to follow it, they should smite his neck. The first part of the advice makes it clear that repeated apostasies were to be tolerated. The second part, in the absence of a clear authority from the Qur'ān or the *Sunnah*, may be demurred to, with the highest respect for the great Caliph, in the same spirit in which a woman had dared to contradict him, by citing a verse of the Qur'ān, when he wanted to limit women's dower by an order. The *Kanz al-'Ummāl*, moreover, is a collection of *Ḥadīth* on which not much reliance is placed by adepts in the subject. However, the report could be reconciled with the Qur'ānic text and the Prophet's *Sunnah*, if it is presumed that each time the man defected, he joined the enemy ranks.

The second incident of Ḥaḍrat 'Umar's time, to which reference is generally made is that, after the conquest of Tustar, Sa'd b. Abī Waqqāṣ and Abū Mūsā Ash'arī had sent a messenger to the Caliph. Among other things, the messenger reported that they had caught an Arab who had committed apostasy after becoming a Muslim and had killed him. Ḥaḍrat 'Umar said: "Why did you not

*Apostasy and the "Khilāfat al-Rāshidah"*

do this? You should have shut him up in a room, bolted the door and given him one loaf of bread on each of three days. He might possibly have repented in that time. O God! this was not done under my orders, nor was it done in my presence, nor was I pleased when I heard it." It is emphasised, however, that Sa'd and Abū Mūsā were not called to account for what they had done and the Caliph's comments merely established the desirability of an opportunity being allowed for repentance. This dialogue between Ḥaḍrat 'Umar and the messenger is given by Abū Ja'far Ṭaḥāwī in *Sharḥ Ma'ānī al-Āḥār*<sup>11</sup> and also by Ibn al-Athīr Jazrī in his *Jāmi' al-Fawā'id*.<sup>12</sup> It is, moreover, said to be mentioned in Shāfi'i's *Kitāb al-Umm* and *Muwattā'* of Baihaqī. As for the three days' grace period, the question will be discussed hereinafter.

Ṭaḥāwī's compilation referred to above recounts another incident connected with what happened during the conquest of Tustar. Anas came as the emissary of Abū Mūsā to the Caliph 'Umar who inquired as to what had befallen Ḥajjibah and his companions and also about the people of Bakr b. Wā'il. They had become apostates and joined the polytheists. They were killed by the Muslims, apparently in a fight, and when this was reported to the Caliph, he observed that they should have caught them alive for that would have been more pleasing to him than any valuables. The emissary said: "O Commander of the Faithful! what could have been done to them except that they should have been killed, if they were captured alive?" The Caliph replied: "If you had taken them alive, I would have presented to them the door by which

11. Vol. II, pp. 117-21.

12. Pp. 282-3.

### *Punishment of Apostasy in Islam*

they had gone out (of Islam). If they had reverted (to Islam), well and good; otherwise I would have consigned them to prison." Apparently these people had been killed in regular battle as Baihaqī clarifies in his *Sunan al-Kubrā*, "Kitābal-Murtadd".<sup>13</sup> In spite of that, the Caliph, it seems, would have merely imprisoned them unless they repented—there is no indication here that he would have killed them. This report, therefore, seems to detract from the value of the precedent dealt with above. For these people were not simple apostates—they had, in addition, fought the Muslims, and if such leniency could be shown in their case, *a fortiori*, greater leniency would have been possible in respect of mere apostasy unaccompanied by *Ḥirāb* (active enmity). In the alternative, an assumption ought to be made that even in the instance cited above the persons concerned were *Muḥāribs* (active oppositionists) and not mere renegades from the faith.

The third incident of the Second Caliph's time, on which reliance is placed by some writers on the subject of apostasy, relates to the case of 'Abdullah b. al-Nawāḥah. It was reported to 'Abdullah b. Mas'ūd that some people sitting in a mosque of Banī Ḥanīfah were declaring Musailimah to be a prophet. They were sent for by 'Abdullah b. Mas'ūd and they all expressed penitence. Out of them, 'Abdullah bin al-Nawāḥah was ordered to be killed, but the rest were allowed to go away. 'Abdullah b. Mas'ūd explained that Ibn al-Nawāḥah was one of two persons who had come as envoys of Musailimah to the Messenger of God. On the Prophet's query whether they would testify to his prophethood, the two envoys put the counter question: Do you testify

13. Vol. VIII, p. 207.

### *Apostasy and the 'Khilāfat al-Rāshidah'*

that Musailimah is God's messenger?" On this the Messenger of God observed that if it had been permissible to kill delegates, he would have ordered both of them to be slain. They were, however, allowed to depart without molestation, as envoys were entitled to protection. It was because of this remark of the Prophet that 'Abdullah b. Mas'ūd had ordered that he be put to death. One scholar thinks that as 'Abdullah b. Mas'ūd was Chief Qaḍī of Kūfah under 'Umar at that time and his action was apparently condoned by the Caliph, it should be accepted as a precedent favouring death for an apostate.<sup>14</sup> It may, however, be pointed out that if Ibn al-Nawāḥah was also penitent along with his companions, the Chief Qaḍī was under a religious obligation to accept his *Taubah*, even according to the orthodox view. In so far as he departed from this norm, his personal decision cannot be upheld as a binding precedent. Moreover, the Prophet himself had stayed his hand out of respect for his status as envoy and one fails to see how words uttered by him in that capacity would make him liable to the supreme penalty, if he was subsequently captured, in another context. The Prophet's observation on that occasion should have been accepted on its face value as conferring immunity on the man despite his obnoxious conduct. In any event, this incident cannot be used as a precedent for ordering the death sentence for apostasy. Musailimah, it may be remembered, was a pseudo-prophet and a rebel against the Muslims, and this would also reflect on his adherents.

There is also the instance quoted from 'Abd-ur-Razzāq's compilation of *Ḥadīth*, of an *Umm Walad*

14. M. Abu'l-A'la Maudūdī, *Murtadd Ki Sazā Islāmi Qānūn Men*, pp. 20-1.



### *Punishment of Apostasy in Islam*

(a female slave who had borne a child to her master) turning Christian. Ḥaḍrat 'Umar ordered her to be sold to people other than her own co-religionists.<sup>15</sup> If as an apostate she was liable to the death sentence, this decision would be hard to understand. It can only be reconciled with the assumption that there was no such prescribed punishment.

As in the case of the Prophet himself, Ḥaḍrat 'Umar too had written to the Christian residents of Najrān, before their banishment, to the effect that any one of them accepting Christianity instead of Islam would lose his protection. They had, it is to be remembered, reverted to Christianity after once joining the Islamic fold.<sup>16</sup> No threat of execution was held out to actual or prospective apostates. This conduct on the part of the Caliph can be of assistance in evaluating the other instances mentioned and would suggest the inference that the element of *ilrāb* (active enmity) must be presumed to exist in those instances in which the death penalty was actually imposed.

### *Section III*

This brings us to a consideration of instances from Ḥaḍrat 'Uthmān's regime. These find place in lesser known compilations of *Ḥadīth* like Baihaqī's "Collection," the *Kanz al-'Ummāl*. They belong to the category not considered reliable by discerning scholars like Shāh Walī Ullāh of Delhi.

The first relevant entry in the *Kanz al-'Ummāl*

15. Al-Zaila'ī, *Nasb al-Rāyah li Ahādīth al-Hidāyah*, p. 100.

16. Dr M. Ḥamīdullah, *Siyāsi Wathīqah-jāt* = Urdu translation by Abū Yaḥyā Imām Khān Nowshehrāwī, pp. 115-6.

*Apostasy and the "Khilāfat al-Rāshidah"*

ascribes a statement to Ḥaḍrat 'Uthmān, on the authority of the *Musnad* of 'Uthmān, that whosoever becomes a disbeliever after having voluntarily adopted the Faith, he would be killed.<sup>17</sup> This is a bare statement without any information as to the circumstances in which the words were uttered by the Caliph and without reference to any authority in the Qur'ān or the *Sunnah*. Not much weight can be attached to such abstract sayings, and, if at all, they should be construed as qualified by the requirement of *ihrāb* on the part of the person concerned. That would reconcile the saying with the letter and spirit of the Qur'ān.

The second instance in the *Kanz*<sup>18</sup> is a report from Sulaimān b. Mūsā that Ḥaḍrat 'Uthmān had called upon a *Murtadd* three times to recant and then ordered him to be killed, as he refused to comply with the demand. Here, again, the brief account almost amounts to an inferential statement from circumstances that are shrouded in darkness. For all one knows, the man in question may have been a rebel besides being a renegade from the Faith.

Then finally we have the version of 'Abdullah b. Mas'ūd in the *Kanz*<sup>19</sup> that a group of people in Iraq committed apostasy. He wrote to Caliph 'Uthmān regarding them and received the reply that Islam should be presented to them, and if they agreed to accept the Faith, they should be left alone. If they refused, that should be fought against (*qātalahum*) as given in one version by a writer in the *Zamīndār*. This is clear indi-

17. Urdu translation, op. cit., p. 511.

18. Ibid., p. 512.

19. Ibid., p. 514.

### *Punishment of Apostasy in Islam*

cation that these people were rebels against whom military measures were taken and the instance, therefore, does not warrant the conclusion that peaceful apostasy by itself would have been regarded as punishable.

A review of these cases would not justify the enunciation of a positive principle that even in a case of apostasy, not accompanied by active hostility, the Third Caliph would have ordered the person concerned to be slain. The sayings are bereft of the circumstantial details such as could lend colour to such an inference.

#### *Section IV*

Ḥaḍrat 'Alī's war with the Khwārij (the seceders) is used by some writers as evidence to justify the view that an apostate deserves to be killed. The question whether the Khwārij must be regarded as merely errant Muslims, or a group altogether outside the pale of Islam, seems to have been a matter of controversy between the Doctors of Law. But Ḥaḍrat 'Alī's own opinion appears to have been that they had not ceased to be Muslims. In the *al-Musawwā Min Ahādith al-Muwatṭā'*, Shāh Walī Ullāh has recorded a report that the Fourth Caliph heard a man proclaim near a mosque: "*Lā ḥukm illa Lillāh*"—there is no judgment except that of God—which was the slogan raised by the Khwārij against Ḥaḍrat 'Alī for his having agreed to arbitration between him and Mu'āwiyah, in respect of succession to the Caliphate. Ḥaḍrat 'Alī acknowledged that what the man was saying was correct and told him that he had three things to offer

### *Apostasy and the 'Khilāfat al-Rāshidah'*

them: (i) they will not be prevented from the mosques so that they may remember Allah therein; (ii) they will not be prevented from sharing in *Fai'* (the booty that accrues to Muslim warriors, without fighting) so long as their hands were with his hands (another version varies this condition to: Whatever they earn will be immune from *Fai'*); and (iii) the Caliph will not initiate the fighting with them. The implication is clear that Ḥaḍrat 'Alī did not regard them as disbelievers. The fighting between the Caliph's forces and the Khwārij resulted from their stand that those who did not share their beliefs were liable to be killed as disbelievers and they actually killed some Muslims who had passed by them, on this plea. Details of their attitude and the consequent fighting are given by several historians including Ibn al-Ṭīqīqā (*al-Fakhri*)<sup>21</sup> and Ibn Athīr (*Tārīkh al-Kāmil*).<sup>22</sup> Reference may also be made for support to this view to the *Fath al-Bārī*.<sup>23</sup> M. Sher 'Alī also quotes from *Tafsīr al-Kabīr*<sup>24</sup> to show that most 'Ulamā' regarded the Khwārij to be a sect of the Muslims, despite their doctrinal aberrations. Their case is, moreover, distinguishable from that of peaceful apostates because of their taking up arms against the Muslims. No benefit can be gained by sponsors of the punishment theory of apostasy from such an instance.

There is also a report from 'Ikrimah, a freed slave of Ibn 'Abbās, that Ḥaḍrat 'Alī had ordered the burning to death of certain heretics (*Zanādiqah*). Ibn 'Abbās heard of this incident and remarked that he would

21. Pp. 114-7.

22. Vol. III, pp. 148 *et seq.*

23. Al-'Ainī, *Umdat al-Qārī*, Vols. XI and XII, p. 234.

24. Vol. III, p. 614, quoted in *Qatl-i-Murtadd aur Islām*, p. 164.

### *Punishment of Apostasy in Islam*

have put them to the sword and not subjected them to torture by fire for that method of punishment was forbidden by the Prophet. He then recited the *ḥadīth*: "Whosoever changes his faith shall be killed." This report is included in *Ṣaḥīḥ al-Bukhārī*.<sup>25</sup>

'Ainī in his *'Umdat al-Qārī* cites an opinion that those persons were followers of Ibn Sabā' who invested Ḥaḍrat 'Alī with divine status. M. Sher 'Alī has cited<sup>26</sup> excerpts from Ibn Ḥazm's *al-Faṣl fi'l-Milal wa'l-Aḥwā' wa'l-Niḥal* and Shahrastānī's *al-Milal wa'l-Niḥal* which confirm the nefarious role of these people in attempting to create dissensions among Muslims. On the authority of Shahrastānī, it is stated by M. Sher 'Alī that Ḥaḍrat 'Alī had banished Ibn Sabā' to Madā'in on his saying to the Caliph: "*Anta anta*" (You are, you are—God). So the Sabā'is were disrupters of the social order and their case would be differentiated from that of simple apostasy, on that ground.

Moreover, Maulānā Abu'l-Jalāl Nadwī A'zamgarhi<sup>27</sup> criticises this report on technical grounds. He says that Ibn 'Umar and Sa'id b. Muṣayyab charged him with *Kidhb* (lying) and Ibn Mu'in did not accept traditions from him as he belonged to the Ṣafarīyyah sect of the Khwārij. His attribution of an act to Ḥaḍrat 'Alī, which was against an injunction issued by the Prophet, is, therefore, open to doubt. According to 'Abdullāh b. Ḥārith, Imām Ḥusain son of Ḥaḍrat 'Alī had charged 'Ikrimah with fabricating reports against his father<sup>28</sup>

25. Arabic-Urdu, op. cit., Vol. III, p. 596.

26. Quoted in his *Qatl-i-Murtadd aur Islām*, p. 67, from Ibn Ḥazm's *al-Faṣl*, Vol. II, p. 115, and Shahrastānī's *al-Milal* on margin of Ibn Ḥazm's *al-Faṣl*, p. 167.

27. *Qatl-i-Murtadd*, p. 13.

28. Jalāl-ud-Dīn Shams, *Islām aur Madhhab-i-Azādi*, pp. 126-8.

### *Apostasy and the 'Khilāfat al-Rāshidah'*

and people did not offer funeral prayers for him when he died. Apart from the question of its authenticity, however, the aptness of this precedent is also questionable, as shown above.

The *Kanz al-'Ummāl* gives another report<sup>29</sup> from Abi al-Ṭufail. He was included in an expedition sent by Ḥaḍrat 'Alī against Banī Najīyyah. They found them divided into three groups. One group among them said they were Christians initially but had accepted Islam and had held fast to it. The second group declared that they had adhered to their original faith, Christianity. The third group, after becoming Muslims, had reverted to the Christian creed. When called upon to return to Islam, they declined the offer and they were killed in the fighting that ensued and their families were made slaves. It is apparent that this was a case of rebellion combined with apostasy. An expeditionary force had to be sent against them and they were killed in the fighting. The instance does not serve to strengthen the stand of those who would like to make out apostasy to be a crime rather than a sinful transgression.

The same collection of *Ḥadīth* mentions one al-Mastūr or al-Mastūrād b. Qabīṣah as having become a renegade from Islam to Christianity. He admitted this fact when brought before Ḥaḍrat 'Alī but he evidently, in the course of conversation with the Caliph, whispered something in his ear which led to his being killed. We are left to conjecture what the nature of the provocation thus offered was and this detracts from the value of this precedent for it is not possible to discover the rationale of the decision given therein. For all we know, he may also have been

29. Urdu Translation, op. cit., pp. 517-8.

### *Punishment of Apostasy in Islam*

a *Muḥārīb*, for not much is mentioned about his history.

Both the above two instances are, otherwise too, of weak authority, for they are part of a compilation which does not inspire consummate confidence in its reliability.

An anonymous writer in the *Daily Zamīndār* dated 11 October 1924, on the authority of *Sunan al-Nasā'ī* and some lesser known compilations also referred to the rebellion of the people of Hīrārā. It is said that Ḥaḍrat 'Alī sent Ibn 'Abbās and some other Companions and Anṣār in a delegation to them and two thousand of the rebels reverted to the true faith on their persuasion and the rest were killed. It is clear that here there was a combination of apostasy with rebellion and the instance is not pertinent to the question whether apostasy alone requires to be punished.

A review of the relevant reports pertaining to the *Khilāfat-i-Rāshidah* thus reveals some incidents which included an element of active hostility to Muslims, justifying violence against persons who had combined apostasy with rebellion. Other incidents in which apparently apostates were punished are either based on reports of dubious authority or, being bereft of antecedent details, do not suffice to furnish adequate guidance as to the rule that should prevail in such cases. In some instances we have merely verbal reports about what was said or done by one of the four rightly-guided Caliphs on some occasion, without any attempt at analysis of the factors that determined the saying or the deed. On the other hand, the absence of action or suggested action in certain instances would seem to militate against the assumption that there was any firmly-established and well-defined precedent governing such cases. There

*Apostasy and the "Khilāfat al-Rāshidah"*

is room for raising a presumption in most cases that the delinquent who came in for punishment might have transgressed the bounds of good citizenship or tried to harm the collective interests of the Muslim community and was thus adjudged guilty of an offence calling for extreme treatment by the persons in authority, by way of *Ta'zīr*.



## Chapter IV

### APOSTASY AND THE FUQAHA'

At the outset, it may be acknowledged that the apparent unanimity among *Fuqahā'* on the question of treatment to be meted out to an apostate from Islam strikes one, at first sight, as impressive. Differences, however, exist, firstly, as to whether it is incumbent on the adjudicating authority to afford an opportunity for repentance to the apostate before he is condemned to death and, secondly, as to whether female apostates are to be exempted from this punishment or not. By analogy, some other exemptions have also been the subject of juristic discussions. A useful summary of the principal points involved and the variant opinions expressed thereon would be found in al-Samarā'i's *Aḥkām al-Murtadd*.<sup>1</sup> The significance of these differences and their impact on the main point, whether apostasy is a culpable offence, will become apparent after we have surveyed the whole field and are in a position to comment on the rationale of juristic opinion.

The first question formulated by al-Samarā'i, in this context, reads: "When a Muslim commits apostasy, is he to be killed after proof of his apostasy has become available (forthwith) or is he to be called upon to repent? And if he insists on his apostasy, is he to be put to death or given a respite?" The learned author notes that there has been a good deal of controversy between those who deny the necessity of a demand being made for reversion

1. Pp. 194-222.

### *Apostasy and the Fuqahā'*

to the faith and those who are convinced of the obligatory nature of such a step. He quotes from the *Rahmat al-Ummah fī Ikhtilāf al-A'immaḥ* of al-Dimashqī an extract which epitomises the differences on this point. The latter starts by saying that the *A'immaḥ* are agreed on the proposition that whosoever forsakes Islam would be liable to the death sentence. Then the consequent procedural steps which have evoked controversy are commented upon. According to him, Imām Abū Ḥanīfah's position was that *Istitābah* (calling for repentance) was not obligatory and the person concerned should be put to death unless he himself asks for consideration, in which case three days' grace period would be allowed to him. Some of the Imām's followers, however, have opined that even if no respite is solicited, a period of grace should be granted by way of *Istihbāb* (as a course recommended). Imām Malik considered a demand for *Taubah* (repentance) to be obligatory. If the person repents, his *Taubah* should be accepted. If he is adamant, he should nevertheless receive a respite for three days for he might possibly relent during this period. If he insists on his apostasy after that, he would be killed. To Imām Shāfi'ī two differing opinions are ascribed on both points, of the necessity for *Istitābah* and the grace period. Imām Aḥmad b. Ḥanbal is also attributed two variant opinions. It is related from Ḥasan al-Baṣrī that there should be no *Istitābah* and the person should be slain immediately. 'Aṭā' makes a distinction between a person born a Muslim and a disbeliever accepting Islam and then becoming a renegade. In the case of the former, no demand for repentance would be made, but in the case of the latter, this would be necessary. There seems to be apparently no rational basis for such a distinction. Form Sufyān al-

## *Punishment of Apostasy in Islam*

Thaurī the tradition has been handed down that the opportunity for repentance should extend over the lifetime of the delinquent, and this was also the opinion of Ibrāhīm al-Nakha'ī who was the teacher of the teacher of Imām Abū Ḥanīfah. Ibn al-Qudāmah<sup>2</sup> interprets this dictum of al-Nakha'ī to mean that the apostate can never be killed (*Lā yuqṭal abadan*).

From among the Imāmīyyah, al-Ṭūsī has expressed the opinion that the call for repentance should be made twice and that this was necessary. He has, however, stated in another place that there was no legal justification for fixing any time-limit for repentance and has cited an instance wherein Ḥadrat 'Alī had demanded reversion to the faith from a Muslim who had become a Christian and, as he declined the offer, he was killed. Referring to the *ḥadīth*: "Whosoever changes his faith shall be killed," he has explained that it apparently did not sanction a demand for repentance. Somewhat inconsistently, Ṭūsī in a later part of his book, *Tahdhīb al-Aḥkām*, has cited a report from Sahl b. Ziyād that Ḥadrat 'Alī had prescribed a three days' grace period after a demand for repentance had been made. Al-Nahwī and al-Sayāghī from among the Zaidiyyah favour three days' respite after the call for *Taubah*.

Imām Ibn Taimīyyah, of the Zāhiri school of thought, did not regard it obligatory to make a call for repentance before inflicting the penalty of death for apostasy. He derived strength for his view from the tradition which says that a person who quits the faith and separates himself from the Islamic community is liable to be killed, and added that the Prophet had not prescribed

2. *Al-Mughnī*, Vol. VIII, p. 125.

### *Apostasy and the Fuqahā'*

*Istitābah*, though he directed that if such a person repents, he is to be left unmolested. The reason is that the call to the faith had already reached him earlier, as contrasted with the case of a *Kāfir al-Aṣlī*—a disbeliever continuing as such. Apparently Imām Ibn Taimīyyah also considered that the cases of Ibn Abi Sarḥ, Muqais b. Ṣabābah, 'Abdullah b. Khaṭal, and others, and the people of 'Urinah supported his stand. Al-Sāmarā'i himself observes that these instances are not apt as they are distinguishable on facts and the persons concerned were guilty of active opposition to Islam or had murdered Muslims, and these were not instances of simple apostasy. We have also discussed these cases earlier and arrived at a similar conclusion.

The opinion of Sarakhsi (Hanafī) is then cited from his *Mabsut* that the respite of three days is based on the analogy of *Khiyār*—option of rejection, in a sale transaction, within three days. The analogy is by no means helpful, for a conversion or reversion to a creed, being a matter of conscience, cannot be equated with a profane sale transaction which connotes a dealing between two persons, for a consideration. Sarakhsi evidently seeks to follow the practice of Ḥaḍrat 'Umar in allowing a three-day grace period for repentance. Al-Sāmarā'i also adverts to *al-Muḥallā* of the Zāhiriyyah Imām, Ibn Ḥazm, wherein it is mentioned that practice has varied from a three-fold demand for repentance coupled with a respite of three days or even one day's or a whole month's grace period as was apparently adopted by Ḥaḍrat 'Alī, in one case. Al-Sāmarā'i's own predilection is for the matter of the respite period being left to the discretion of the Imām or sovereign authority, who will determine the issue, having regard to all the circumstances of a case.

### *Punishment of Apostasy in Islam*

In any event, he thinks, the period fixed should be adequate for ensuring sufficient time for full consideration of his opinion by the delinquent. Specially would this procedure be appropriate, according to him, when a whole group of apostates has to be dealt with collectively, and fortifies himself by citing the opinion of Sarakhsī to the same effect.

On the authority of *'Umdat al-Qārī*, *Irshād al-Sārī* (these two being commentaries on *Ṣaḥīḥ al-Bukhārī*) and *Sunan* of Abī Dāwūd with its commentary by al-Suyūṭī, he states that the Prophet himself had accepted the *Taubah* of several apostates. But Ibn Qudāmah Ḥanbalī would deny an opportunity for repentance to a *Zindīq* (heretic) who conceals his disbelief, for his outward show of belief would not improve matters. Such a stance would seem to run counter to the express injunctions contained in some *aḥādīth* and to the practice of the Prophet in dealing with hypocrites.

Al-Ṣabāgh, from among the Shāfi'īyyah, would accept the *Taubah* of a *Zindīq* also, for, he says, it is immaterial whether such a person's *Kufr* comes out in the open or is concealed. In one of his statements, Imām Aḥmad b. Ḥanbal has drawn on Zaidīyyah view for a similar opinion, in his *al-Baḥr al-Zakḥkhār*. Al-Sāmārā'ī apparently approves of this stand. The learned author then discusses certain other specific cases, e.g. a person who abuses God or His Messenger, or is a sorcerer, and quotes opinions of certain jurists that the perpetrators of such offences cannot be forgiven. In support, some of them cite verse 49 from Sūrat al-Nisā': "Verily Allah forgives not that a partner should be ascribed to Him. He forgives (all) save that to whom He will." This text would not, in the humble opinion of the present writer,

### *Apostasy and the Fuqahā'*

justify the delinquent's punishment, necessarily in this world—like other forms of *Kufr* (disbelief).

Al-Sāmārā'i then takes up the question as to whether *Taubah* of a person who repeatedly changes his faith should be accepted without any limitation or not. This is also a subject of controversy among *Fuqahā'* (jurists). Ibn Qudāmah in his *al-Mughnī* favours acceptance every time that such an occasion arises and he cites an impressive list of authorities in support of this proposition, though he also notes some dissenting views. He relies on verse 138 of Sūrat al-Nisā': "Lo! those who believe, then disbelieve, and then increase in disbelief, Allah will never pardon them, nor will He guide them to the (right) way," and verse 39 of Sūrat al-Anfāl: "Tell those who disbelieve that if they cease (from persecution of believers that which is past will be forgiven them."

Al-Subkī has quoted an opinion from al-Shāfi'i, in his *al-Saif al-Maslūl* (to which al-Sāmārā'i had access, in its manuscript form) that every time an apostate reverts to the faith, opportunity for repentance has to be allowed and that the Prophet had given such opportunity to one, Rayān, four or five times. He then quotes the opinion of Ibn Wahb that *Istitabah* is to be available always and every time there is change of faith, on the authority of Imām Shāfi'i, Imām Aḥmad and Ibn al-Qayyim. There are opinions available of Imām Shāfi'i and al-Ṣabāgh from among Shāfi'is, of Imām Muḥammad from among the Hanafiyyah and Ibn al-Qayyim of the Zāhiriyyah, in accord with this view, as evidenced by *al-Umm* and *al-Shāmil* (manuscript) of the first two and of *al-Mabsūṭ* of Imām Muḥammad (manuscript). To Ishāq he ascribes the view that the apostate must be killed on the fourth occasion of his reversion. The Hanbalīs, however, generally,

### *Punishment of Apostasy in Islam*

deny opportunity for repentance to a person who repeats his apostasy, and reference is made to *al-Kāfī* of Ibn Qudāmah, *Muntahī al-Arādāt* of Ibn al-Najjār, *Manār al-Sabīl* of Ibn Ḍuyān and *Hidayat al-Rāghib* of 'Uthmān. This opinion they base on verse 138 of Sūrat al-Nisā' set out above and verse 91 of Āl-i-'Imrān: "Surely those who disbelieve after their belief and then increase in disbelief, their repentance shall not be accepted and these are they who have gone astray," and add that the repetition of their offence indicates the corruption of their creed and their scant regard for Islam.

To the superficial observer, verses 90 and 91 of Sūrah Āl-i-'Imrān may present a problem in so far as the former talks of God accepting repentance from apostates in general terms, and the latter declares that the *Taubah* of those who increase in disbelief (or, as Pickthall has it, "have grown violent in their disbelief") shall not be accepted. Ibn Jarīr Ṭabarī in his *Jāmi' al-Bayān* has tried to resolve the apparent conflict by suggesting that the latter *āyah* applies to Jews who had entertained belief in the advent of the Prophet of Islam but, when he appeared, they declined to accept him and thus became disbelievers, and that their increase in disbelief refers to sins they committed in that state. It is these sins, according to him, that shall not be forgiven, unless they first discard their disbelief in the Prophet. It is not intended to lay down, he says, that God will not accept genuine repentance after disbelief, from His servants, for He has promised to accept it from all disbelievers or sinners.

Shaikh Ismā'il Haqqī in his *Ruh al-Bayān*<sup>3</sup> offers the comment that the verse only means that God will not guide them so long as they persist in their liking for

3. Vol. I, p. 344.

disbelief and when they revert to the truth, they will again receive guidance. As has been observed earlier, the author of *Bahr al-Muhīt* records the opinion that meaning of "and who increase in disbelief" is that they complete their disbelief and die as disbelievers—that is to say, these people only would have no forgiveness. "Increase in disbelief" obviously requires an extended period of time for its actualisation.

Rāzī in his *Tafsīr al-Kabīr* has given several alternative interpretations of verse 91 of Āl-i-‘Imrān, and these have been noticed by us earlier, in the section relating to Qur’ānic *āyāt* bearing on apostasy. Others have also made attempts at reconciliation of these verses. Ḥasan, Qatādah, ‘Aṭā’ and Zamakhsharī say that if an apostate repents on his death-bed, this shall not be accepted from him, on the authority of verse 19 of Sūrat al-Nisā’. Qaḍī ‘Abd-ul-Jabbār, Qifāl and Ibn Anbārī suggest that verse 91 of Āl-i-‘Imrān applies to those who apostatise a second time after reverting to the true Faith—their second apostasy would wipe out the effect of even their first *Taubah*. Another suggestion made by certain scholars is that *Taubah* of those who increase in disbelief is not acceptable, as they never repented of their original apostasy.

The words of the *āyah* are, however, general and should be so understood as applying to all *Murtaddīn* (apostates) from Islam and the words *ba’da imāni-him* (after they have believed) apply to Muslims who become renegades. Wherever reference is made to Jews and Christians in the Qur’ān they are specifically described as *Ahl al-Kitāb* (People of the Scripture). It has been suggested that in verse 91, the non-acceptance should be understood as referring to their first *Taubah*, the effect of which has been taken away by their subsequent perfidious conduct.



### *Punishment of Apostasy in Islam*

Verse 18 of al-Nisā' is also pertinent in this context: "Forgiveness is only incumbent on Allah towards those who do evil in ignorance and then repent soon after (*min qarīb*). These are they towards whom Allah relents. Allah is All-Knowing, Wise." The words in the *āyah*, *bi-jihālat*, have been rendered as "in ignorance". But the word *jahl* and its derivatives are also used in the Qur'ān for acts known to be evil but of whose effects the perpetrator is ignorant. An example is furnished by verse 90 of Sūrah Yūsuf: "He said, 'Do you know what you did to Joseph and his brother, in your ignorance?'" The end-words there are *Izantum jāhilun*. The brothers of Joseph knew that what they were doing was wrong, though they may not have adverted to its evil consequences. *Kufr* (disbelief) is the highest form of "evil"—*Mufradāt al-Qur'ān* of Imām Rāghib Iṣfahānī bears this out. Ṭabarī in his *Jāmi' al-Bayān*<sup>4</sup> cites a saying of Ibn 'Abbās: "Whosoever does an evil act, he is ignorant." Again, the words *min qarīb* which were generally translated as "soon after" have a more comprehensive connotation. Ṭabarī has cited several opinions in his *Jāmi' al-Bayān*<sup>5</sup> that *qarīb* in this verse means, according to consensus, "time of death"—that is, repentance is possible except for an actual death-bed repentance. 'Ainī in his *Umdat al-Qārī*<sup>6</sup> interprets the phrase "increase in disbelief" as meaning that they go on intensifying disbelief till they die and their repentance at the time of death would not be accepted. These comments indicate that the door of repentance is not closed even to hardened disbelievers during their lifetime.

4. Vol. IV, p. 187.

5. Vol. III, pp. 174-6.

6. Vol. XI and XII, p. 233.

### *Apostasy and the Fuqahā'*

This opinion appears to accord well with the view of al-Thaurī and al-Nakha'ī that time for repentance must extend over the lifetime of the person concerned and cannot be limited. There is also a *ḥadīth* narrated by Abū Hurairah in *Ṣaḥīḥ Muslim* that if a person repents before the sun rises from the west (before Doomsday), God accepts his penitance.<sup>7</sup> That is only a forceful way of saying that the possibility of repentance is open throughout the terrestrial space of human life.

The limitation of the grace period does not reveal a general agreement, even among the *Ṣaḥābah* (Companions) and, evidently, their varying opinions were based on their individual *Ijtihād* (judgment). Similar is the case with *Fuqahā'* (jurists) who had differing approaches to this question. If we find that any one opinion out of them is more in consonance with the letter and spirit of the Qur'anic text and the established practice of the Prophet, we can adopt it as the norm for decision. This procedure would be in keeping with what the great Imāms had themselves counselled their followers to do. In the *Hujjat Allah al-Bālighah*, Shāh Walī Ullāh gives an extract from 'Allāmah Sha'rānī's *al-Yuwāqīt wa'l-Jawāhir*, which is instructive. Says Sha'rānī: "This is also reported from the Imām [Abū Ḥanīfah] that whenever he expressed an opinion, he would say: 'This is the opinion of Nu'mān b. Thābit. I have exerted to the utmost to arrive at that view which strikes me as best of all. But if someone is in the know of something better, then the correct position would be that that should be followed and what I have said should be discarded.'" Imām Mālik also used to declare: "There

7. *Mishkāt al-Maṣābiḥ*—Walī-ud-Dīn Khatīb 'Umri' = Arabic-Urdu by S. Nā'ib Naqwi and M. Muḥammad 'Alī, Vol. I, p. 523.

### *Punishment of Apostasy in Islam*

is no one, except the Messenger of God, among whose sayings there will not be some that are acceptable and some that are worth rejection." Hākim and Baihaqī have also quoted Imām Shafi'ī's dictum: "If you come across an authentic *ḥadīth*, that is my creed also." Similarly, Imām Aḥmad b. Ḥanbal used to say: "As compared with the word of God and of His Messenger, no statement by any other person deserves to be regarded." <sup>8</sup> As we have discussed in the section relating to the Qur'ānic texts bearing on apostasy, some of them clearly contemplate the natural death of the apostate in due course, one result of which will be that all his good actions will be wiped out—al-Baqarah, verses 162 and 218, and Āl-i-'Imrān, verse 92.

If then the view of al-Nakha'ī be preferred, that no limitation as to time can be imposed on the time allowed for repentance, on the ground that it is in harmony with the Qur'ānic text and not in conflict with the *Sunnah*, it would clearly follow that an apostate cannot be subjected to any pressure, physical or otherwise, nor can he be punished for his peaceful apostasy, though goodly exhortation may be utilised to persuade him to change his belief. For he has a whole lifetime available for reconsideration of his position, short of the actual moment of death.

The question arises: what, then, are the grounds on which the seemingly unanimous opinion of jurists that an apostate should be put to death, is based? In his *Aḥkām al-Murtadd*,<sup>9</sup> al-Sāma'ī states that an apostate has to be killed only by order of the person in authority

8. Shāh Walī Ullāh, *Hujjat Allāh al-Bālighah*=Urdu translation by M. 'Abd-ur-Raḥīm, Vol. I, p. 701.

9. Pp. 212-3.

### *Apostasy and the Fuqahā'*

(Imām), for his slaying is obligatory in respect of a right of Allah as contrasted with a private person's right. He makes an exception in favour of a person who acts as an envoy on behalf of disbelievers, for the Messenger of God had forbidden the killing of Musailimah's envoys. Then the learned author mentions the dialogue between Ibn Qudamah and the Prophet as to the propriety of killing a disbeliever who, in the course of a fight, declares his faith in Islam and points out that the mere profession of such faith would confer immunity on the person concerned, without any probing into the genuineness of his conversion. He comments that if, by a mere declaration of faith, a person can secure his life, then (it follows that) if he disbelieves in Islam, he should forfeit it, for "whoever has the power to bestow has also the power to take away". This, with all respect, appears to be at best a specious reasoning. The analogy of an unconditional gift being withdrawn by a donor would not be apt in such a case. Even if it be true that a man can save his life by a simple declaration of faith, it does not follow that the converse proposition, that a renegade loses his life, should also be true. Here there is an obvious fallacy.

But the main reason for punishing an apostate is expressed by al-Samarā'i in these words:

Again, Islam is not merely a religion but also a nationality, and rebellion against it would mean deprivation of this nationality. For such an act would be treachery and change from co-citizenship to enmity, as has been explained by Shaikh Aḥmad Ibrāhīm (in *Majallat al-Qānūn al-Miṣriyyah*). The apostate causes others to imagine that Islam is lacking in goodness and thus prevents them from (accepting) it. Consequently he commits an offence not only against his own person but against others also. A disbeliever, if he sticks to his disbelief, is excusable in the eye of people, for one

### *Punishment of Apostasy in Islam*

reason or another. But, after he has been introduced to Islam and has been united with his Maker, what is his excuse? Says Sayyid Quṭb (in his *Fī Zilāl al-Qur'ān*): Disbelief that precedes belief is forgiven. For one who has not seen the light may be excused if he walks in darkness. But for disbelief after acceptance of the Faith, there can be no forgiveness and no excuse. Verily disbelief is a veil. When it is lifted, man's nature is united with his Maker, the strayed camel is joined to the caravan and the plant is connected with its source-spring. Those who become renegades after that, they calumniate their nature, deliberately insist on their error and adopt arrogance and waywardness.

There is no forgiveness after that and no guidance. They lead their souls voluntarily towards destruction and specially when apostasy is repeatedly committed by them, after they have believed: "Lo! those who believe, then disbelieve, and then (again) believe, then disbelieve and then increase in disbelief, Allah will never pardon them nor will He guide them unto a way".—Sūrat al-Nisā', verse 138. Their increase in disbelief is the natural result of their backsliding and their straying into error after having received guidance. That is their last opportunity to follow the just and well-defined path.<sup>10</sup>

All that can be said about this kind of reasoning is that it fails to convince the modern mind which is conditioned by rationalism. And Islam being *Din al-Fiṭrah*, the religion of Nature, would favour rational thinking. It does not stand to reason that a person who at any time accepts the true faith and is later assailed by doubts should be in a worse position than a confirmed and hardended disbeliever.

A typical illustration of the orthodox attitude towards apostasy is furnished by the discussion included in al-Samarā'i's book on the position of one who is compelled to accept the true faith.<sup>11</sup> By and large, the opinions

10. Al-Samarā'i, op. cit., pp. 212-3.

11. Ibid., pp. 72-4.

### *Apostasy and the Fuqahā'*

collected therein favour the view that if such a person reverts to his original faith, after the compulsive pressure is removed, he would not be regarded as an apostate and would not be liable to punishment. Sarakhsi is quoted as saying that there was only an outward manifestation of Islam, on his part, under the shadow of the sword and, therefore, inference is that he never really believed. It is strange that an exactly similar situation arising on the *Istītabah* of a Muslim who commits apostasy does not attract the same principle in the writings of these savants. Al-Samarā'i, while agreeing with the dictum of al-Sarakhsi, generally, adds by way of exception that in respect of a *Fāriq al-Harbī al-Murtadd* (a hostile apostate who separates from the community), the acceptance of apparent reversion to the faith under coercion would be regarded as permissible, for he is compelled to the truth. But that clearly negatives the Qur'anic injunction: *La ikrahā fi'd-din* (there is no compulsion in religion). He enunciates clearly the principle at one place that "one who does not believe in Islam with his heart remains a disbeliever, and he has no share in Islam, irrespective of whether compulsion or coercion is permissible in his case or not, for one cannot attain to Islam, without belief, in a state of full possession of reason." He says further: "Faith is born of belief on the part of an independent person who has unfettered power of choice," and quotes the above verse in support. However, somewhat inconsistently, he adds in the end: "But coercion exercised over an apostate to make him revert to the faith, on pain of being killed (is an exception), for this is a matter established by *Nass* (well-defined text), and it is not possible to vary that decision by *Ijtihad*. The reason he gives for this opinion is that he had voluntarily accepted

### *Punishment of Apostasy in Islam*

Islam initially, had become familiar with the faith and then defected from it, and that is a different case from that of a person who never believed and never accepted Islam under duress. One may wonder why the principle should change in the circumstances visualised, when one remembers that faith has relation to genuine belief and not a mere show of it, under coercion.

In the tenth volume of his *Mabsūṭ* in *Bāb "Aḥkām al-Murtaddīn,"* Sarakhsī has taken his stand on the Qur'ānic verse: "Say unto those of the wandering Arabs who were left behind: You will be called against a folk of mighty prowess, to fight them until they surrender" (*Sūrat al-Fath*, verse 17), and which was revealed in respect of the apostates, according to one opinion. He also cites the *ḥadīth*: "Whosoever changes his faith, slay him," and argues that apostates are worse than polytheists and to the latter the Muslims can offer only one of two alternatives—Islam or the sword. On the last two points enough has been said earlier. According to the generally accepted view, the verse cited concerns those hypocritical Bedouin tribes who had contrived to lag behind when the Prophet went to Mecca for the '*Umrah* (lesser pilgrimage) from where he returned with the conclusion of the Peace of Hudaibiyyah. Exegetists do not, by and large, agree with Sarakhsī that the verse refers to *Murtaddīn*. The verse, according to the most favoured construction, contains a prophecy that the Muslims would come into conflict with the Byzantine and Iranian Empires whose subjects were people "of mighty powers".<sup>12</sup> Sarakhsī apparently interprets the word *yuslimūna* occurring in the verse as meaning "until they become Muslims" instead of "until they surrender". It is well

12. Al-Rāzī, *Tafsir al-Kabīr*, Vol. VII. p. 544.

### *Apostasy and the Fuqahā'*

known that the Iranians and the Byzantines were defeated by the Muslims during Ḥaḍrat 'Umar's time, but they did not immediately become Muslims though they had surrendered to them and become subservient to them.

The suggestion, therefore, that God's word called upon Muslims to fight these peoples till they accepted Islam would be contrary to historical facts and, therefore, the interpretation adopted by most translators that they would become subservient to the Muslims is to be preferred. The peace treaty of Bait al-Muqaddas was signed between Ḥaḍrat 'Umar and the Byzantines, in the sixteenth year of Hijrah and Iran was conquered in the twenty-first year of Hijrah. Conversions to Islam took place later, during the reign of Marwān b. Ḥakam and the regime of 'Umar b. 'Abd-ul-'Azīz of the Umayyad family. Ibn Athīr in his *Nihāyah fī Gharīb al-Ḥadīth* has given one meaning of the word *aslama* to be "he became obedient, or submissive" as in the Prophet's saying in which he declared that there is a Satan with every person, but "I have made my 'Satan' submissive to myself."

Shah Wali Ullāh in his *Hujjat Allāh al-Balighah*<sup>13</sup> has attempted to justify the orthodox line by observing that apostasy would amount to rank impertinence in respect of God Almighty and would defeat the Divine objective of making truth prevail and of establishing its unquestioned authority. Citing the *ḥadīth*: "Whosoever changes his faith must be killed," he explains that, in such a case, it is necessary to subject the renegade from the faith to condign punishment, for tolerance of such an incident and overlooking it would open the door wide to lowering the prestige of the true faith and would amount

13. Urdu translation, op. cit., Vol. II, pp. 630, 661-2.



### *Punishment of Apostasy in Islam*

to insulting it. He expresses the view that God Almighty would be pleased if the faith He has revealed should become (so to speak) man's second nature. The question at once arises whether a coercive process could ensure such a laudable result. And in the face of the explicit Qur'anic verses which have been discussed earlier, is it to be presumed that the defection from the faith, by an insignificant human, would detract from the majesty of the Self-Sufficient Almighty? If the Qur'anic texts are given their full force, any attempt to coerce a reluctant person to believe would be contrary to the Divine scheme of things.

A modern scholar has offered the following observations in this matter: "Islam is not a religion but a whole way of life. . . . A community organised as a State can with difficulty find room within its boundaries for people who differ from it on fundamentals which are the basis of that community." Regarding *Dhimmīs*, in his opinion, the Islamic State tolerates them and those actions of theirs which do not directly conflict with the basis of the community, "as Islam is not without hope in respect of human nature,"<sup>14</sup> and expects till the last that they may see the light of truth in the end. Again, one might, with respect, query whether human nature ceases to be human nature, in the case of an apostate. The argument is pushed to its logical conclusion by the learned scholar when he postulates that a person who disagrees with the basis of organised society has only two alternatives open to him: he may either go out of the boundaries of the society's operation or submit to deprivation of all rights as a citizen. The latter state, according to him, would be

14. M. Abu'l-A'la Maudūdī. *Murādī Kī Sazā Islāmī Qāwūn 'Men*, pp. 45-8.

### *Apostasy and the Fuqahā'*

worse than death and, therefore, it would be better to kill him, for a rightless person would be a danger to the society.<sup>15</sup> But would the creation of a veritable fifth column with the organised society, in the shape of hypocrites who have been coerced under the shadow of the sword, to make a verbal but dishonest declaration of faith, redound to its security and stability? The dissident defector may have been assailed by genuine doubts and, unless he himself is persuaded to see the error of his thinking, how is he to be convinced where the truth lies? To each group of humans, as the Qur'ān declares, its own creed is made to appear fair, and who but the Supreme Being should be the arbiter between truth and falsehood? That function He has reserved to Himself for decision on Doomsday, and who are we to accelerate the Divine pace of requital for His disobedience in a field which is His preserve? To invest one group of human beings with the sole authority to decide such a question would lead to internecine warfare among organised communities. Providence has made this earthly sojourn a trial for us all and coercion or duress in this field would, as several exegetists of the Qur'ān have declared, make the concept of trial meaningless. Moreover, the practice of the Prophet at Medina<sup>16</sup> in having a pact with the non-Muslims for certain State purposes and leaving them free to profess and follow their own religions, with equal political benefits to all parties, points to another alternative solution besides the two visualised by Maulānā Maudūdī. The question may well be posed: Is it possible to have a State peopled purely by persons professing a single faith? It will be shutting one's eyes to reality

15. Ibid.

16. Dr M. Ḥamīdullah, *Siyāsī Wathīqah-jāt* = Urdu translation by M. Abū Yahyā Imām Khān Nowshehrawī, pp. 19-24.

### *Punishment of Apostasy in Islam*

to imagine that such a State, with the world system of today, could be set up with such exclusiveness.

Another big chink in the armour of those who uphold the orthodox view about the apostate's punishment is furnished by the exemption approved by the Hanafīyyah and the Imāmīyyah in favour of females and the reasons adduced in support of that exemption. A brief reference to that aspect of the problem has already been made earlier. Al-Sāmarā'ī has given a long extract from *al-Mabsūṭ* of Sarakhsī in which he has referred to three *aḥādīth* according to which the Prophet disapproved of the killing of women on the ground that they do not possess the capacity to fight.<sup>17</sup> Sarakhsī says in this context: "And in this [the instances cited from the Prophet] there is specification that justification for killing is on the ground of *qitāl* (fighting) and women do not participate in fighting. In this respect there is no difference between original disbelief and adopted disbelief." He then goes on to explain that the slaying is not requital for apostasy but that penalty is justified having regard to insistence on disbelief. This piece of subtle reasoning it would be difficult to accept. Further on, he expresses himself in these terms: "Change of faith and original disbelief are among the principal offences, but they are between the servant and his Lord. Consequently, their requital is postponed to the Hereafter. And what is hastened in this world by way of prescribed punishments is on account of interests that pertain to God's servants, like *Qīṣāṣ* (penalty for murder) for the security of life; the punishment for fornication for protection of ancestry and the bed; the punishment for theft for the protection of property; the punishment for slander for the protection of

17. Al-Sāmarā'ī op. cit., pp. 219, *et seq.*

honour and dignity ; and the punishment for drinking for the preservation of the senses. By insistence on disbelief, a person wages war against the Muslims and so he is killed to remove the hostility. For God Almighty has expressly specified the ground for it at places, e.g. the verse: "If they fight you, then slay them" (al-Baqarah, verse 191). He makes explicit the cause that brings about the ground, at places, and that is association with God. So when it is established that the slaying is with reference to militancy, she will not be killed for original disbelief or for adopted disbelief, but will be imprisoned."

Similar opinions are recorded in the *Hidāyah* of Marghinānī, the *Fatḥ al-Qadīr* of Ibn al-Hammām, in Chalpi's gloss on the margin of *Fatḥ al-Qadīr*, in Ṭaḥāwī's *Kitāb al-Siyar* and in 'Asqalānī's *Fatḥ al-Bārī*.<sup>18</sup>

If the true reason for slaying of an apostate is *Muḥāribah* (active hostility or militancy), then the justification for the slaying of a peaceful male apostate who does not wish to give up his allegiance to the Islamic State would go by the board, on identical reasoning. That seems to explain the reason why Ibn Ḥayyān in his *Baḥr al-Muḥīṭ* says in his commentary on the verse: "There is no compulsion in religion," that a person who forsakes Islam for another religion cannot be compelled to revert to Islam, according to one opinion, for this would destroy the concept of this phenomenal world being *Dār al-Ibtīlā'* (house of trial) and a place wherein duties are imposed. This important pro-

18. *Sharḥ Fatḥ al-Qadīr* (Ibn Hammām) 'ala'l-*Hidāyah Sharḥ Badāyat al-Mubtadī* (Marghinānī) and on its margin *Sharḥ al-'Ināyah 'ala'l-Hidāyah* (Bābartī) and comments of Chalpi, Vol. IV, p. 29. Ibn Ḥajār 'Asqalānī, *Fatḥ al-Bārī*, Vol. XII, pp. 33; Abū Ja'far Ṭaḥāwī, *Sharḥ Ma'ānī al-Āḥiār*, Vol. II, p. 34.

## *Punishment of Apostasy in Islam*

nouncement is in perfect harmony with the modern concepts of human organisation.

That *Kufr* (disbelief) by itself does not justify shedding of blood and that only active hostility can provide the sanction for it, has been formulated as a basic principle by Shaikh Maḥmūd Shaltūt of al-Azhar, in his *al-Islām, 'Aqīdah wa Sharī'ah*,<sup>19</sup> and again in his *Tafsīr al-Qur'ān al-Karīm*<sup>20</sup> while interpreting Sūrat al-An'am, verse 159: "And that you slay not the life that Allah has made sacred." Al-Samarā'i has also quoted the dictum in his *Aḥkām al-Murtadd*<sup>21</sup> and has further added that it is supported by what is said by Ibn Daqīq in *Aḥkām al-Aḥkām Sharḥ 'Umdat al-Aḥkām* and by San'ānī's opinion included in his *al-'Āddah 'alā Aḥkām al-Aḥkām*. The extract from Ibn Daqīq's book, included in *Aḥkām al-Murtadd*, concerns the question whether a Muslim who does not offer prayers is to be killed or not. According to him, he cannot be slain for this offence, unless he takes up arms against the Muslims on this issue. He then makes the following apt observations:

There is difference between *Muqātalah* (mutual fighting) over an issue and *Qatl* (slaying) on its account. For *Muqātalah* is mutual action which requires participation by two parties and from permission to fight over the issue of prayer, when fighting arises over it; it does not necessarily follow that it is permissible to slay a person not offering prayers, even when he does not fight over it.

San'ānī, while agreeing with this opinion, cites the instance of persons who decline to pay *Zakāt*. In such a case, he says, the *Zakāt* will be taken from them by

19. Pp. 300-1.

20. P. 427.

21. Pp. 114-5.

### *Apostasy and the Fuqahā'*

force and there will be no fighting and no killing, unless they initiate a fight, themselves.

The argument that a Muslim who has become an apostate deserves to be treated differently because he had received the call to the truth, and had believed in it at one time, seems to be devoid of substance. If this theory has any merit, what would be said of non-Muslim scholars who have devoted a lifetime to the study of the Qur'ān and the Islamic system of thought and action and have still adhered to their own faiths? Has not the call reached them and are they not offering an affront to the True Religion by their omission to accept Islam? The non-Muslim missionaries, some of whom invent all kinds of calumnies against Islam—should they not be held guilty of contempt of God's Word? If pushed to its extreme conclusion, this theory would involve Muslims in war with practically all disbelievers, within our country or without. Such an eventuality is not contemplated by the Qur'ān or the *Sunnah* of the Prophet and it must be firmly held that the affront hypothesis has no rational basis. Neither authority nor reason would sanction the spirit of belligerency underlying this hypothesis. The myth that Islam was spread by the sword has been exploded by the writings of some of the fair-minded Western savants themselves. For illustration, one may refer to the scholarly work of Sir Thomas Arnold, *The Preaching of Islam*. Islam owes its success as a missionary religion to its freedom from irrational dogma and its principles of Divine Unity and human equality and fraternity which cut across the divisive factors of race, colour or geography, and the personal examples of service and piety on the part of devotees of the faith. Some zealots may have over-

### *Punishment of Apostasy in Islam*

stepped the bounds of fair dealing, at times in our history, but there are exceptional occurrences of little significance in our collective ethos.

The enthusiasm for conformism has led some of our scholars to advocate the idea that an Islamic State cannot permit non-Muslims residing within its boundaries to propagate their own faith among Muslims, though they could allow them to do so among other non-Muslims and to teach their own children the tenets of their faith and, in the process, to subject the teachings of Islam also to balanced criticism.<sup>22</sup> This stance seems to be influenced by totalitarian ideas such as prevail under Fascist or Communist regimes and it may be humbly suggested that such a concept is not in keeping with the spirit of the Qur'an or the *Sunnah* of the Prophet. There is the classical instance of the Prophet allowing the Christian delegation from Najrān to stay in his own mosque and to perform their worship rites therein. He debated the questions pertaining to the Faith with them and when he found them to be impervious to rational argument, he challenged them to *Mubāhalah* (mutual invocation of the Curse of God on the group that takes a false stand), but the Christians fought shy of it. He did not bar their right to advocate the truth of their own creed. Islam must stand on the excellence of its own teachings and needs no protective shield against exchange of views at the intellectual level. Indeed a missionary religion like Islam must be prepared for discussion of the relative merits of various religious beliefs, in the field of comparative study, before it can hope to convince others of its own superiority, of course within the bounds of decency and decorum.

22. M. Abu'l-A'lā Maudūdī, op. cit., pp. 32-9, 77.

### *Apostasy and the Fuqahā'*

A careful study of the fundamentals of our religion and our history can fairly lead to the inference that apostasy alone, unalloyed by hostility to the established order, is not amenable to the disciplining dictates of any human tribunal but that punishment for an offence of this nature must be left to the All-Wise Creator Himself. The instances in which apostates forfeited their lives in the lifetime of the Prophet or during the regime of the Rightly-Guided Caliphs do not justify a general rule that a non-militant apostate must be put to death. In most of these cases there was superadded to the change of faith an element of rebellion against the State or hostility to the Muslims. In those days, it was, in all probability, a legitimate presumption to make that a person forsaking the Islamic fold would join the ranks of enemies of the Muslims, and history seems to bear out this presumption. Consequently in the writings of the old jurists, the distinction between apostasy simpliciter and active hostility to the community came to be blurred and, in the course of time, the presumption hardened into the rule that an apostate, unless he repents, must be condemned to death.

The historical incidents involving such condemnation can be very appropriately referred to the principle of *Ta'zīr*—a punishment devised by the sovereign authority, as an expedient step to safeguard the collective interest, in the circumstances prevailing at the relevant times. For such disciplinary measures, the governing principle is thus stated by Dr 'Abd al-Hamid, Professor, Law Faculty, Alexandria University of Egypt, in his *Mubādī Nizām al-Hukm fi'l-Islām*.

It must be noted that those who talk of apostasy being an offence entailing the death sentence do not class it as among the



### *Punishment of Apostasy in Islam*

*Jarā'im al-Hudūd* (offences which invite punishment prescribed in the Qur'ān). For apostasy is categorised by the learned, as among *al-Jarā'im al-Ta'zīriyyah* (offences which attract *Tā'zīr*—punishment emanating from the competent authority), and it is known that there is an important distinction between *Jarā'im al-Hudūd* and *Jarā'im al-Ta'zīriyyah*. The distinction lies in this that punishment in the case of *Ta'zīriyyah* offences is not determined (that is, fixed beforehand) as contrasted with the cases of offences inviting *Hudūd*. The preferred opinion among the *Fuqahā'* is that the determination of punishment for *Tā'zīriyyah* offences is left to (the discretion of) the person in authority (to one who has the authority to pass judgment), and it follows that he can fix any of the punishments except for the sentence of death, in conformity with what would suit the circumstances of the community. And for a long time, this matter has been relegated to determination by the person in authority. Thus there is no obligation to fix a punishment for an action if the collective interest does not require its determination.

The upshot of the discussion is that the *Fuqahā'*, though seemingly upholding an almost agreed doctrine of death for apostasy, yet reveal a variety of opinions as to the rationale of such punishment. They, directly or indirectly, all accept that active hostility is the real justification for harshness to apostates. Basing themselves, as they do, on historical instances which involved such hostility to the community, they felt no necessity to differentiate between peaceful conversions to other faiths and violent defections. Some old as well as modern jurists have taken pains to clarify that disbelief, whether original or adopted, does not *per se* justify the shedding of blood, and this clearly creates a considerable rift in the seeming facade of what is claimed to be a consensus on the subject. There is also a parallel strain of human compassion and understanding, based on the Word of God, clearly discernible in the writings of those who would allow a whole lifetime for repentance to the renegade,

*Apostasy and the Fuqahā'*

which practically means the negation of any punishment for apostasy. The result thus arrived at, by an indirect route, accords well with the Divine Dispensation, and further strengthens the inference that a peaceful conversion of a Muslim to another faith is not actionable.

## Chapter V

### SUMMARY AND CONCLUSIONS

The Qur'an gives us in unambiguous terms the fundamentals of the Islamic faith and sets out the basic principles which should govern an Islamic polity. A principle that stands out conspicuously in the socio-political dispensation of the Book of God is epitomised in the noble words: "There is no compulsion in religion." This principle finds endorsement in several other verses of the Qur'an, which manifestly tolerate, though they disapprove of, divergences from the Straight Path. The highest value is attached to the condition of the mind and heart of a person as compared to lip-service to the ideals of the good life, and the test of right-mindedness is to be manifested in deeds and not mere words. Man is free to choose between truth and falsehood and the Prophet's function is to convey the message, exemplify it in his own life and to leave the rest to God—he is no warder over men to compel them to adopt particular beliefs. Liberty of conscience is thus a value of good life itself and must be kept in view when studying the incidents and effect of *ahādīth*, the practice during the Rightly-Guided Caliphate or the opinions of Doctors of Law which must not depart from the letter or the spirit of God's Word. The fountainhead of wisdom and guidance is the Qur'an, and the injunctions contained therein must be accorded a status akin to that of a fundamental constitutional law, in the light of which all affairs in the socio-political field are to be regulated and interpreted.

Our study of the relevant Qur'anic verses establishes

### *Summary and Conclusions*

that the punishment for apostasy is postponed to the Hereafter, in the same way as that for original disbelief. There is absolutely no mention in the Qur'an of mundane punishment for defection from the faith by a believer, except in the shape of deprivation of the spiritual benefits of Islam or of the civil status and advantages that accrue to an individual as a member of the well-knit fraternity of Muslims. He should, however, be free to profess and propagate the faith of his choice, so long as he keeps within the bounds of law and morality, and to enjoy all other rights as a peaceful citizen of the State, in common with his Muslim co-citizens. Not only is there no specific provision in the Qur'an, prescribing punishment for an apostate in the phenomenal world, but several verses of the Holy Book envisage the natural death of the apostate in his condition of disbelief and even contemplate repeated apostasies and reversions to the true faith, on the part of an individual. He has also his whole lifetime available to him for repentance, short of the actual moment of death.

This position positively militates against the theory evolved in the course of our religious history that an apostate must receive the capital sentence, immediately or after a short period of grace, on his very first defection. The Qur'an, however, permits fighting and the severest action against those who are actively hostile to the Muslim community or seek to disrupt the social order but only till such time as peace is restored, and it is ensured that religion is for Allah only, which means that all religious persecution should cease.

A survey of the relevant incidents that occurred in the Holy Prophet's lifetime reveals no departure from the Divine norms, and this indeed was to be eminently expect-

### *Punishment of Apostasy in Islam*

ed of the Perfect Exemplar. Some reported sayings of the Prophet, which appear to be couched in general terms and whose circumstantial antecedents are not clearly known, must receive specific interpretations such as would involve factual presumptions for bringing them into conformity with the words of the Qur'an. The possibility that the narrators who have transmitted these sayings had omitted to give, or failed to recollect, the appurtenant circumstances cannot be excluded. In the case of some of these sayings, a few qualifications have been read into them by our Doctors of Law themselves and our suggested presumptions are, therefore, not without warrant, specially when the overriding consideration is kept in mind that no action or saying could have been contradictory to what is explicitly mentioned in the Qur'an. Indeed some positive instances in which the Prophet of God refrained from action against apostates have been found to exist, and this fortifies the suggested assumptions underlying the reported general sayings. In the face of such instances, it is difficult to postulate that the Prophet had enunciated a general rule prescribing the death penalty for apostasy simpliciter.

The occurrences during the regimes of the four Rightly-Guided Caliphs, on which the thesis of the capital punishment for apostasy partly rests, have also been examined, and the inference emerges that they were illustrations of requital for active hostility or social disruption and not merely for peaceful dissent from the true faith after its initial acceptance. In some of these cases, the relevant facts are shrouded in obscurity so that no clear guidance is furnished by them. Verbal utterances of some of the Caliphs, bearing on the subject, which seem to suggest a general and rigorous rule that apostasy must be visited

### *Summary and Conclusions*

with the death sentence, in the absence of full knowledge of the facts to which they pertained, would require to be interpreted in consonance with the letter and spirit of the Qur'an and the assumption would be legitimate that the persons concerned had committed not merely *lese majeste* of the Faith but that they had also transgressed the limits of civic liberty, to the prejudice of the collective interests of the community. Some of these sayings are of dubious authenticity. Moreover, no opinion based on individual *ijtihād* of even an august *Ṣaḥābī* can be accepted as a binding precedent, if it is found to be contrary to the Divine injunctions on the Prophet's practice, directly or indirectly. Some instances indeed, in which the extreme penalty was withheld from an apostate, fortify the conclusion that no inelastic general rule on the subject existed and each case was conditioned by its own exigencies.

The *Fuqahā'* (jurists) acknowledge generally that no punishment for apostasy is prescribed in the Qur'an. Their principal reliance for the view that apostasy must be punished with death is on certain *qaulī* (verbal) *aḥādīth*, but as has been brought out in the discussion of those sayings, the relevant occasion or the circumstances to which they might have reference are not fully explained. Some of these sayings have been subjected to qualifications and exceptions by some very acute minds among the jurisconsults, and it is only a justifiable further step that a presumption about their factual basis being *Hirāb* or *Muḥāribah* (active hostility to the community) should be raised. The attempt to gain indirect support from some verses of the Qur'an for the orthodox view cannot be described as successful. Historically speaking, the defectors from the faith, in olden times, almost invariably

### *Punishment of Apostasy in Islam*

joined the enemy ranks and became violent antagonists of Muslims. That seems to be the genesis of the prescription of the capital sentence for apostasy and no necessity was apparently felt of analysing the circumstances of each individual case to discover whether the element of *Hirāb* co-existed with apostasy or not. In course of time, decisions justifiable on their own facts hardened into a general rule prescribing the extreme penalty for apostasy. At least one old exegetist—Ibn Ḥayyān Andalusī—and one modern jurist—Shaikh Maḥmūd Shaltūt—have laid down expressly the principle that shedding of a person's blood is not justifiable for simple, peaceful apostasy. Apparently Chalpī and Ibn Hammām also favour this view for they consider that apostasy is not punishable in this world.

Indirect support is lent to these dissentient voices by a different line of approach favoured by some of the old Doctors of Law. In contrast with the majority view that either no opportunity for repentance should be allowed to a renegade or that only a limited period of grace would be permissible, Ibrāhīm Nakha'ī and Sufyān Thaurī held the opinion that the door of repentance was always open to a defector from the faith during his lifetime and that clearly implies, as Ibn Qudāmah has observed while commenting on this opinion, that an apostate can never be killed. This position, it is submitted, is much more in harmony with the Qur'anic texts than the generally accepted orthodox view that a change of faith by a Muslim invites the penalty of death. Some of the exegetists of the Qur'ān have made it absolutely clear that on the basis of God's Word, the choice of one's faith must be a voluntary act, unfettered by pressure or coercion of any kind and that any other view would negative God's scheme

### *Summary and Conclusions*

of this earthly life being an ordeal and an opportunity for testing the individual soul's capacity for righteousness, in the empiric terrestrial setting. In this respect no rational distinction can be made between original and adopted disbelief. The argument based on supposed indignity offered to Islam by a renegade should be set against the consideration that it would be much more undignified for the true Faith to retain adherents by coercion. By and large the orthodox dictum is sought to be buttressed with questionable logic and reasoning that is unconscious of its own inner contradictions.

At best, punishment for apostasy can be adopted by way of *Ta'zīr* and not as a *Hadd* specified in the Qur'ān. The position would be analogous to breaking a prohibition, for example, with regard to drinking, for which the Qur'ān does not expressly prescribe a definite punishment. The principle of *Ta'zīr* is that both the propriety and measure of punishment for such offences which require to be suppressed in the collective interest, at any particular time or in a particular exigency, depends on the discretion of the sovereign authority. A relevant consideration, however, would be that apostasy being an offence in the realm of the rights of God (*Huqūq Allāh*) rather than the rights of mankind (*Huquq al-'Ibād*), as Sarakhsī has pointed out, may well be left to be dealt with by the Almighty in the Hereafter and there would be no pressing necessity to punish a peaceful defection from the faith. It would be expedient not to punish such a peaceful change of faith, for fear of reprisals by other non-Islamic States and to avoid the danger of internecine wars between organised communities. This course is also consistent with the doors of missionary activity of Muslims being kept open.

In this context, it may be appropriate to remember



## *Punishment of Apostasy in Islam*

that Pakistan is a member of the United Nations whose Charter declares in its Preamble that the Peoples of the United Nations are determined, *inter alia*, to reaffirm faith in fundamental human rights and in the dignity and worth of the human person. Art. 1 of that Charter lays it down as one of the purposes of the United Nations "to achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character and promoting and encouraging respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion." Art. 55 of the Charter prescribes that "with a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: "... (c) universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion." Art. 56 provides that "all members pledge themselves to take joint and separate action in co-operation with the Organisation for the achievement of the purposes set forth in Art. 55."

On 10 December 1948, the General Assembly of the United Nations passed and proclaimed the "Universal Declaration of Human Rights". Art. 18 of that Declaration reads as follows:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

The Declaration may not, in law, amount to a binding agreement among the nations, but it represents by con-

### *Summary and Conclusions*

sensus the common aspirations of the world community and at least places a moral obligation on members of the United Nations not to disregard its provisions. It may be added that these provisions do not appear to be repugnant to the liberal spirit of tolerance of the Qur'ān and the *Sunnah* and there is consequently no reason for refusal to abide by them. It was probably in recognition, partly, of this salient fact that the Constitutions of 1956 and 1962 promulgated in Pakistan guaranteed to all citizens, including the minority communities, equality before the Law, equal protection of the Law and the right to profess, practise and propagate any religion, subject to law, public order and morality. The Fundamental Rights assured to citizens in these constitutional instruments also included the right of any religious denomination to establish, maintain and manage its own religious institutions and the right of any section of citizens to preserve its own distinctive culture. These rights were declared to be justiciable and the framers of these two Constitutions were obviously conscious of the international understanding on the subject.

But coming nearer home, we come across a more fundamental fact. Ch. Muḥammad 'Alī, an ex-Prime Minister of Pakistan, in his book, *The Emergence of Pakistan* (p. 240), while commenting on the Qā'id-i-A'zam's first address to the Constituent Assembly of Pakistan, delivered on 11 August 1947, has made the following pertinent observations:

What is overlooked is that Pakistan came into existence not by conquest but as the result of a negotiated agreement between the representatives of the Hindu and Muslim communities to partition the subcontinent. An explicit and integral part of the agreement was that the minorities in both states would have equal rights and equal

## *Punishment of Apostasy in Islam*

protection of law. In that context, the Quaid-i-Azam was wholly right in asserting the fundamental principle that "we are all citizens of one State." It follows that the state must give full protection to the "life, property and religious beliefs of its subjects [and] should wholly and solely concentrate on the well-being of people and especially of the masses and the poor." These practical tasks of statesmanship can be fulfilled only by giving equal rights and equal responsibilities to all citizens. But this can neither negate the fact that the vast majority of the citizens of Pakistan are Muslims nor take away the responsibility for leadership from the Muslim community. The principles of governing the country will inevitably be based on Islam, if the leadership is sincere in its professions. . . .

These agreed guarantees, in effect, give the status of *Mu'ahids* (people with whom there is a pact) to non-Muslims who live in Pakistan and owe allegiance to the Islamic State under the auspices of the Constitution. One may hazard the prediction, without much fear of contradiction, that a similar pattern of guaranteed fundamental rights would also form part of any future constitution of this country. In these circumstances, there would be a distinct impediment in the way of our legislators, if a proposal is put forward to make apostasy on the part of a Muslim to be punishable under any law enforceable in our Courts. The persons in authority would be constrained, in consequence, to exercise their discretion against such legislation and no punishment by way of *Ta'zir* even would be regarded as apt for defection from the Faith. In the humble opinion of the present writer, such a consummation would be in conformity with the Qur'anic texts which remove punishment for disbelief, whether original or adopted, from the purview of the short span of human life on this earth and relegate it to the eternal life after death. The august practice of the Prophet of Islam is in no sense in conflict with this position.

## BIBLIOGRAPHY

### *Commentaries of the Qur'ān*

- Aḥkām al-Qur'ān*—Abī Bakr Aḥmad b. 'Alī al-Rāzī al-Jaṣṣāṣ (Maṭba'at al-Bihīyyat al-Miṣrīyyah, 1347 H.).
- Aḥkām al-Qur'ān*—Abī Bakr Muḥammad b. 'Abdullah known as Ibn al-'Arabī (1st edn., 1376/1957).
- Anwār al-Tanzīl wa Asrār al-Tā'wīl*—Nāṣir al-Dīn 'Abdullah b. 'Umar b. Muḥammad al-Baiḍāwī, with *Tafsīr al-Jalālīn* of al-Suyūṭī, and *al-Muḥalla* (Maṭba'ah Muṣṭafā al-Bābī al-Ḥalabī, Egypt, 1358/1939). Also the same commentary on the margin of the Qur'ān published by the same Maṭba'ah, 1344 H.
- Bayān al-Qur'ān*—M. Ashraf 'Alī Thānwī (Ashraf al-Maṭābī, Thana Bhawan, U. P. India).
- al-Ḍurr al-Manṭūr fī al-Tafsīr bi al-Māthūr*—Jalāl al-Dīn 'Abd al-Raḥmān b. Abī Bakr al-Suyūṭī (possibly published in Egypt).
- Faṭḥ al-Bayān fī Maqāṣid al-Qur'ān*—Ṣiddīq Ḥasan Khān (Maktabat al-'Āṣimah, Cairo 1307 H.).
- Jāmi' al-Bayān fī al-Tafsīr al-Qur'ān*—Imām Abī Ja'far Muḥammad b. Jarīr al-Ṭabarī (Maṭba'at al-Maimaniyyah, Egypt).
- al-Kashshāf 'an Haqā'iq—Ghawāmiḥ al-Tanzīl wa 'Uyūn al-Aqāwīl fī Wajūb al-Tā'wīl*—Imām Muḥammad b. 'Umar al-Zamakhsharī (Maṭba'at al-Istiḳamah, Cairo, 1365/1946).
- Mafātīḥ al-Ghā'ib*, known as *Tafsīr al-Kabīr*—Imām Fakhr al-Dīn Muḥammad al-Rāzī (Maṭba'at al-'Āmirat al-Sharafīyyah, Egypt, 1308 H.).
- Rūḥ al-Ma'ānī fī Tafsīr al-Qur'ān al-'Aẓīm wa'l-Sab' al-Mathānī*—Abī'l-Faḍl Shihāb al-Dīn, al-Sayyid Maḥmūd—al-Ālūsī al-Baghdādī (Idārat al-Ṭabā'at al-Muniriyyah, Egypt).
- Tafsīr 'Abdullah ibn 'Abbās* (Urdu) with *Lubāb al-Nuqūl fī Asbāb al-Nuzūl* of al-Suyūṭī and trans. of the Qur'ān into Urdu by Maulānā Ashraf 'Alī Thanwī (Matba'ah Sa'idī, Kalam Company, Karachi).

## *Punishment of Apostasy in Islam*

*al-Tafsir al-Kabir* known as *al-Bahr al-Muḥīl*—Athīr al-Dīn Abī ‘Abdullah Muḥammad b. Yūsuf b. ‘Alī b. Yūsuf b. Ḥayyān al-Andalusī al-Gharnāṭī al-Jayānī, known as Abī Ḥayyān (Maktabah wa Matābi‘ al-Naṣr al-Ḥadī that al-Riyāḍ).

*Tafsir al-Qur‘ān al-‘Aẓīm*—H. ‘Imād al-Dīn Abu’l-Fiḍā’, Ismā‘īl b. Kathīr (Dār al-Iḥyā’ al-Kutub al-‘Arabīyyah, ‘Isā al-Bābī al-Ḥalabī, Egypt).

*Tafsir al-Qur‘ān al-Ḥakīm*—al-Shaikh Maḥmūd Shaltūt (Dār al-Qalam, Egypt, 1966).

*Tafsir al-Qur‘ān al-Ḥakīm*, known as *Tafsir al-Manār*—al-Sayyid Muḥammad Rashīd Riḍā’ (Maṭba‘at al-Manār, Egypt, 1349/1931).

*Tafsir al-Qur‘ān al-Jalīl*, entitled *Lubāb al-Tāwīl fī Ma‘ānī al-Tanzīl*—Alā’ al-Dīn ‘Alī b. Muḥammad b. Ibrāhīm al-Bagh-dādī, known as al-Khāzan.

*Tafsir al-Qur‘ān*—M. Shabbīr Aḥmad ‘Uthmānī.

*Tafsir Mū‘daḥ al-Qur‘ān*—Maulānā Shāh ‘Abd al-Qādir (Maṭba‘ah Khādīman al-Islām, Delhi) and also on margin of *Fath al-Raḥmān Tarjumān al-Qur‘ān*—Aḥmad b. ‘Abd al-Raḥīm (Shāh Walīullah) (Maṭba‘ah Fārūqī, Delhi, 1312 H.).

*Tafsir Rūh al-Bayān*—al-Shaikh Ismā‘īl Ḥaqqī al-Bārusawī (al-Maṭba‘at al-‘Uthmānīyyah).

*Tarjumān al-Qur‘ān*—Abu’l-Kalām Āzād (Sh. Mubārak ‘Alī, Lahore).

## *Hadīth Literature*

*Fath al-Bārī*—Abu’l-Faḍl Shihāb al-Dīn Aḥmad b. ‘Alī b. Muḥammad b. Ḥajar al-‘Asqalānī (al-Maṭba‘at al-Bihīyyat al-Miṣrīyyah, 1378 H.).

*Jāmi‘ Tirmidhī Sharīf*—Arabic-Urdu—Nā‘ib Ḥusain Naqwī and M. Muḥammad ‘Alī (Sh. Ghulam Ali & Sons, Lahore, 1963).

*Kanz al-‘Ummal*—Shaikh ‘Alā’ al-Dīn ‘Alī Muttaqī—Urdu trans. by S. Farīd al-Dīn *alias* Achche Mian (Rampur, 1966).

*Miskhāt al-Maṣābiḥ*—Walī al-Dīn Muḥammad Khaṭīb ‘Umri—Arabic-Urdu—M. Nā‘ib Ḥusain Naqwī and M. Muḥammad ‘Alī (Sh. Ghulam Ali & Sons, Lahore, 1964.)

## Bibliography

- al-Musawwā min Aḥādīth al-Muwattā'* (Maṭba'at al-Salafīyyah, Mecca, 1353 H.).
- Muwattā'*—Imām Mālik b. Anas al-Aṣbahī (Egypt).
- Naṣab al-Rāyah li Aḥādīth al-Hidāyah*—'Allāmah Jamāl al-Dīn Abī Muḥammad 'Abdullah b. Yūsuf al-Ḥanafī al-Zaila'ī (Dābhīl, Surat, India).
- Ṣaḥīḥ al-Bukhārī*—Arabic-Urdu—M. Nā'ib Ḥusain Naqwī and M. Muḥammad 'Alī (Sh. Ghulam Ali & Sons, Lahore, 1963).
- Ṣaḥīḥ al-Bukhārī*—(Aṣḥaḥ al-Maṭābi' Kutub Khānah-i Rashīdiyyah, Delhi, 1376 H.: also Aṣḥaḥ al-Maṭābi' Nūr Muḥammad, Karachi, 1381/1961).
- Ṣaḥīḥ*—Imām Muslim (Maṭba'ah Muṣṭafā al Bābī al-Ḥalabī, Cairo, 1377/1958).
- Sharḥ Ma'ānī al-Āthār*—Abū Ja'far Ṭaḥāwī (Maṭba'at al-Muṣṭafā'ī, Delhi).
- Sunan Abū Dāwūd* (Maktabah Muṣṭafā Muḥammad, Cairo, 1950).
- Sunan al-Kubrā*—Abū Bakr Aḥmad ibn Ḥusain al-Baihaqī (Maktabah Raḥīmīyyah, Deoband).
- Sunan al-Nasā'ī*—(Maktabat al-Salafīyyah, Lahore, 1376 H.); also with *Sharḥ* of Jalāl al-Dīn al-Suyūṭī (al-Maṭba'at al-Miṣrīyyah. al-Azhar).
- Sunan*—Ibn Mājah (Maṭba'ah Muṭtabā'ī, Delhi, and Aṣḥaḥ al-Maṭābi' Nūr Muḥammad, Karachi).
- Talkhīs al-Bukhārī*—Arabic-Urdu—Ra'īs Aḥmad Ja'frī (Sh. Ghulam Ali & Sons, Lahore, 1965-6).
- 'Umdat al-Qārī Sharḥ Ṣaḥīḥ al-Bukhārī*—Badr al-Dīn Abī Muḥammad Maḥmūd b. Aḥmad al-'Aīnī al-Ḥanafī (Dār al-Ṭabā'at al-Āmirah, Egypt).

## Fiqh

- Aḥkām al-Murtadd fi al-Sharī'at al-Islāmīyyah*—Nu'mān 'Abd al-Razzāq al-Sāmarā'ī (Dār al-'Arabīyyah li'l-Ṭabā'at wa'l-Nashr wa'l-Tauzī', Beirut, Lebanon).

## *Punishment of Apostasy in Islam*

- Boḥr al-Rā'iq Sharḥ Kanz al-Daqā'iq*—Ibn Nuja'im Miṣrī (Maṭba'at al-Miṣriyyah, 1st edn.).
- al-Hidāyah ma' al-Kifāyah*—(Maṭba'ah Aḥmadī, Delhi).
- Hujjat Ullāh al-Bālighah*—Shāh Walī Ullah Dehlawī—Urdu trans. by M. 'Abd al-Raḥīm (Qaumi Kutub Khanah, Lahore, 1953).
- al-Islām, 'Aqīdah wa Sharī'ah*—Shaikh Maḥmūd Shaltūt (Maṭba'ah Dār al-Qalam, Cairo, 2nd edn.).
- Jāmi' al-Fawā'id min Jāmi' al-Uṣūl wa Majma' al-Zawā'id*—Imām Majd al-Dīn Abī al-Sa'ādat al-Mubārak b. Muḥammad b. al-Athīr al-Jazrī al-Muṣalī (1346 H.).
- Kitāb al-Muqaddamat al-Mahdāt li Bayān ma Iqtidathū—Rusūm al-Mudawwanah min al-Aḥkām al-Sharī'ah wa'l-Taḥṣīlāt al-Muḥkamāt li Ḥimmahāt Masa'ilaha al-Mushkilāt*—Ibn Rushd. with *al-Mudawwanat al-Kubrā* of Imām Mālik.
- Kitāb al-Risālah*—Imām Muḥammad b. Idrīs Shāfi'ī—Urdu trans. by M. Muftī Muḥammad Amjad 'Alī (Idārah Taḥqīqat-i-Islāmī—Muḥammad Sa'id & Sons, Karachi, 1968).
- al-Mabsūṭ*—Shams al-A'immah Abī Bakr Muḥammad al-Sarakhsī (Maṭba'at al-Sa'ādat, Cairo, 1324 H.).
- Mubādī Nizām al-Ḥukm fi'l-Islām*—Dr 'Abd al-Ḥamīd (Dār al-Ma'ārif, Egypt, 1966).
- al-Mughnī*—Abī Muḥammad Muwaffiq al-Dīn b. Qudāmah al-Maqḍasī—with marginal notes by al-Sayyid Muḥammad Rashīd Riḍā' (Dār al-Manār, Egypt, 3rd edn.).
- Sharḥ al-Zaila'ī 'alā Kanz al-Daqā'iq* (Maṭba'at al-Āmiriyyah, Būlāq, Egypt, 1313 H.).
- Sharḥ Faṭḥ al-Qadīr*—Shaikh al-Imām Kamāl al-Dīn Muḥammad al-Siwāsī thumm al-Sikandarī, known as Ibn al-Hummām al-Ḥanafī—'alā *al-Hidāyah, Sharḥ Bidāyat Mubtadī* of Shaikh al-Islām Burhān al-Dīn 'Alī al-Marghinānī, and on its margin *Sharḥ al-'Ināyah 'ala al-Hidāyah* by Akmal al-Dīn Muḥammad b. Maḥmūd al-Bābartī, and notes by Sa'dullah bin 'Ainī known as Sadī al-Chalpī (Maṭba'at al-Kubrā al-Āmiriyyah, Būlāq, Egypt, 1316 H.).
- Tarjumān al-Sunnah*—M. Badr 'Ālam Nadwī (Maṭba'ah Delhi, 1367/1948).

## Bibliography

### History and Miscellaneous

- A'zam al-Kulām fi Irṭiqā' al-Islām*—Urdu trans. by M. 'Abd al-Ḥaqq of *Proposed Political, Legal and Social Reforms under Muslim Rule* by Nawab A'zam Yar Jang (Maṭba'ah Mufid-i-Ām, Agra, 1910).
- Dā'irah-i-Ma'ārif-i-Islāmiyyah*—(University of the Punjab, 1971).
- Encyclopaedia of Islam* (Leyden, 1932).
- al-Fakhrī fi Ādāb al-Sultāniyyah wa'l-Duwal al-Islāmiyyah*—Muḥammad b. 'Alī b. Ṭabāṭabā' known as Ibn al-Ṭiqṭiqā—ed. by W. Ahlwardt (Griefawald), 1958; its Urdu trans. by Maulānā Muḥammad Ja'far Shāh Phulwārwi (Idārah-i-Thaqāfat-i-Islāmiyyah, Lahore, 1962).
- al-Fauz al-Kabīr*—Hujjat al-Islām H. Shāh Walī Ullah Dehlawī—Urdu trans. by Muḥammad Salīm 'Abdullah (Urdu Academy Sind, Karachi, 1960).
- Ḥayāt-i-Muḥammad*—Muḥammad Ḥusain Haikal—Urdu trans. as *Sīrat al-Rasūl* by Muḥammad Wārith Kāmil (Maktabah-i-Kārwan, Karachi, 1964).
- Imām Ibn Taimiyyah*—Professor Abū Zahrah (Egypt)—Urdu trans. by Nā'ib Ḥusain Naqwi (Sh. Ghulam Ali & Sons, Lahore, 1968).
- Islām aur Madhhabī Āzādī*—M. Jalāl al-Dīn Shams (Lahore Art Press, Lahore, 1950).
- Islām aur Masīhiyyat*—Maulāna Abū'l-Wafā' Thanā' Ullah Amritsarī (Din Muhammadi Press, Lahore, 1960).
- al-Kāmil*—Ibn al-Athīr—Urdu trans. by M. Maqṣūd 'Alī Khair-ābādī (Dā'irah Mu'in al-Ma'ārif, Karachi, 1966).
- Law of Apostasy in Islam, The*—Rev. Samuel M. Zwemer (Marshall Bros., Ltd., London, 1924).
- Madhhab Ke Nām Par Khūn*—Mirzā Ṭāhir Aḥmad (1963).
- Murtadd kī Saṣā Islāmī Qānūn Men*—Sayyid Abū'l-A'lā Maudūdī (Islami Publications, Lahore, 4th edn., 1963).
- Muslim Conduct of State*—Dr Muḥammad Ḥamīdullah (Sh. Muhammad Ashraf, Lahore, 5th edn., 1966).
- Qat-i-Murtadd aur Islām*—Maulvi Sher 'Alī (Qadian, 1925).



## *Punishment of Apostasy in Islam*

- Qatl-i-Murtadd*, *Ghulām aur Laundiyyān*—M. Ghulām Aḥmad Pervez (Idārah Tulū'-i-Islām, Lahore).
- Qatl-i-Murtadd*—Maulānā Abū'l-Jalāl Nadwī A'ẓamgarhī (Maṭba'ah Ḥakīm Barham (Gorakhpur).
- Religion of Islam*—Maulānā Muḥammad 'Alī (Ahmadiyyah Anjuman Isha'at-i-Islam, Lahore, 1936).
- Ṣiddiq-i-Akbar*—Maulānā Sa'id Ahmad Akbarābādī (Nadwat al-Muṣannifin, Delhi, 1961).
- Sirat al-Nabī*—Shaikh Abī Muḥammad 'Abd al-Mālīk ibn Hishām (Maktabah-i-Rabī', Halab, Syria), ed. by Muḥammad Rawās ; also its Urdu trans. by M. Quṭb al-Dīn Aḥmad Maḥmūdī (Dār al-Tab' 'Uthmāniyyah, Ḥaidarābād Deccan, 1949).
- Six Lectures on the Reconstruction of Religious Thought in Islam*—Dr. Sir Muhammad Iqbal (Kapur Art Printing Works, Lahore, 1930).
- Siyāsī Wathīqah-jāt*—Dr Muḥammad Ḥamīdullah—Urdu trans. by Abū Yaḥyā Imām Khān Nowshehrawī (Majlis-i-Taraqqi-i-Adab, Lahore, 1960).
- Tārīkh al-Rusul wa'l-Mulūk*—Abū Ja'far Muḥammad ibn Jarīr Ṭabarī—Urdu trans. by Sayyid Muḥammad Ibrāhīm Nadwī (Karachi, 1967) : also Arabic text ed. by M. J. DeGeoge (E. J. Brill, 1890—Lugd—Batavia).
- War and Peace in the Law of Islam*—Majid Khadduri (Johns Hopkins Press, 1955).

